(7)

The Thirteenth and Fourteenth

OF THE

Controverſial LETTERS,

OR

Grand Controverſie,

Concerning

The pretended Temporal Authority of *POPES* over the whole Earth,

And the

True Sovereign of *KINGS* within their own reſpective Kingdoms.

Between two Engliſh Gentlemen,

The one of the Church of England;

The other of the Church of Rome.

LONDON,

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FRIEND,

YOU had ſav'd your ſelf and me ſome trouble, if your laſt had been your firſt. I almoſt deſpair'd of doing any good upon you, and perceive that *exſculpere verum* out of one of your humour, is one of the hardeſt tasks in the world. But ſince 'tis come at laſt, I regret not my own pains, and for yours, it was in your power to have ſpar'd them. But yet I have not done with you. The Pope is a crafty Gentleman, and has more ſtrings to his Bow then one. Shut the door never ſo faſt, it is hard to keep him out. If St. *Peters* Keys will not open the lock, He has St. *Pauls* ſword to cut it off. Not that I apprehend any great danger from downright fighting. 'Tis a Trick he ſhews as ſeldom as he can: And he has reaſon; for Kings overmatch him at that weapon. But Juſtice has a ſword too, and that ſo ſharp that I ſhould be very ſorry to ſee it in his hands. Now that there may be juſtice without deriving it from *Paſce Oves*, or *Da Claves*; and that it may belong to him as well as others, and by the ſame means; And that he actually has heretofore, and may, when he pleaſe, again ſet on foot pretenſions, upon this Title, to part, perhaps all his Majeſties Dominions, is ſomething too evident to be deny'd, and of too great importance to be neglected. It is a thing which has long diſquieted me with uneaſy thoughts; but I muſt freely avow to you I was never ſo ſenſible of the danger, as ſince I read the *Conſiderations of preſent Concernment.* You are ſo much concerned in that Book, that I muſt needs ſuppoſe you have ſeen it, and obſerv'd how much may be replyed to what you have ſaid to me. But I am for the preſent ſo intent upon what's before, that I cannot reflect on what's paſt. Hereafter poſſibly, when I am in a calmer diſpoſition, and my ſetled ſpirits at more liberty to compare what he ſays to you, with what you have ſaid to me,

I may call you to a new account, and ſee whether you can maintain what you have written. But at preſent, taking all you have given me in payment for currant mony, let us only ſee how far 'twill go.

That in relation to you, and ſuch as are principled like you, we are ſafe from all pretenſions of *Divine Right*, which the Pope can have upon us, I fairly allow you. Are we therefore ſafe? Plainly No, if he have right over us any other way. Nay whether he have right or no, ſo he but pretend it, and you will own his pretence, we are as bad as ever. There is a thing call'd *Human Right* in the world, by which men enjoy their lands, and goods, and whatever they call with truth their own. It has not altogether ſo glorious a ſound as the other, but is not much leſs efficacious; for the World could not ſubſiſt without it. Now although what the Pope claims by *Divine Right*, be enough, as he orders matters, to ſatisfy a not very unreaſonable man, yet his claim by that, is no bar from claiming by any other Title too, by which Right may be had. He may Purchaſe, as well as another man, or receive a Gift, or Legacy, &c. and what he gets by theſe, or any other ways, by which the property of things is transfer'd, is as truly his, as they would be of any other man by the ſame Titles. And who can blame him, for joyning as much Silver as he can to his Gold?

This being ſo, we have made a fine hand on't with all our wiſe ſpeculations, and are much beholding to you, for furniſhing us with Armour of proof againſt the ſharp point of *Divine Right*, while the *Human* may chance knock out our brains with her clouterly club. If there be no fence for this flayl, we are as much at his mercy as ever. Now *Baronius* has taken care that no man ſhould be ignorant, that He may claim both *England* and *Ireland*, and this independently of *Divine Right*, and in vertue of ſuch Titles as are allow'd to create Right in other men. I muſt confeſs, though He ſpeak plain enough, yet I was not ſo much ſtartled by him, whom I took for a partial man, and who I ſee intitles him, to the better part of *Chriſtendom* as well as *England*. This ſeem'd a fancy too wild, to deſerve much credit; and I thought while our caſe was not ſingular, but common to

ſo many and ſo powerful States, and which engaged the ſtrength of Chriſtendom on our ſide, we were ſafe enough. I conſider'd we were pretty well out of the way, and that he could not come at us, till he had poſſeſt himſelf of ſome little countries which lye between us, and which I believ'd would find him work enough, to let us ſleep in quiet, and need no better ſecurity then that of *Ulyſſes*, to be devour'd laſt. But I perceive, by the *Conſiderations*, the caſe is different from what I fancy'd. The Pope I find has ſomthing to ſay to us, which he cannot ſay to every body, and which, to tell you truth, I am ill at eaſe to ſee can be ſaid.

I know you will ſpare me the labour of tranſcribing out of a book which I believe you have, at leaſt may have, on every ſtall. Pray what ſay you to it? The Author is no *Baronius*, or *Bellarmine*, to be ſuſpected of partiality to the Pope, and though he were, Reaſon is Reaſon whoever ſays it. Blind juſtice ſees neither Friend nor Foe, and values not whether it be on the left or right hand the ſcale goes down. Truly I do not ſee we are a jot the better for all your hardly drawn out condeſcendencies. We are at the *en Tierce* and the *en Quart* again. While the Pope plays fair Play, we fear him not, but what ward for his foyning tricks? Certainly he is no ſuch fantaſtical man to inſiſt more on the way then the end. He will be content without all doubt to drive the nail that will go, and, ſo he can get a Kingdom, be ſatisfied to take it as it comes, and like it nere the worſe for bringing a bare *Human* title along with it. But whatever he would think, we cannot agree he may with juſtice do any thing to our prejudice. Nay a *Human* title would be ſo much worſe than a *Divine*, by how much we muſt all acknowledge, that *Human Right* is a true *Right*, ſince we have no other to whatever we poſſeſs and hold dear in the world, whereas we are leſs acquainted with the other.

Tis not but that I believe we may with our Author, rely ſecurely on Preſcription. But with ſuch a Gameſter, and for ſuch a ſtage, 'tis good to play ſure. Beſides there is as much danger from *what is apprehended* as from *what is*. Bare Right alone will do no great feats; it muſt be acknowledged and abetted to become efficacious: And if that

which

which truly is not Right, be taken for Right, and will be ſtood to, and maintained, it will do as much as if it were Right. Now Preſcription which our Author ſays is, our only, but withal a very ſufficient, plea, he ſays alſo the Pope will not allow. And we know how much influence he has upon thoſe of his Communion, and how prone you are to be of his opinion. If you be of his mind in this particular, and admit no Preſcription againſt him, then whether he have Right or no, you at leaſt are perſwaded he has, and will undoubtedly act according to your perſwaſions when time ſerves.

Diſputatio Apologetica de Jure Regni Hiberniæ Authore C. M. Hiberno.

I have a little too much reaſon to be concerned for this point. There is a certain Friend of yours, at leaſt he is of your Communion, who has the confidence to defend in the face of the world, that, of the conditions required to Preſcription, there is not one which holds in the Preſcriptions of the Kings of *England* to *Ireland*. When ſuch things are ſaid, 'tis time to look about us. Though *England* were unconcern'd, *Ireland* is too conſiderable a branch to be torn away from the ſtock. 'Tis Treaſon in great abundance to imagine the diſpoſſeſſing our Soveraign of any part of his Dominions: and here are plenty of men with hard names produc't to prove, it is conſonant to the doctrine of Catholick Authors, to diſmember a great Kingdom at once, and this without any relation to *Divine Right*, though it be ſlightly toucht by the by. And for ought I know, you may pick as many holes in our Preſcription againſt the Pope, as this Author does in our preſcription to *Ireland*.

Twenty to one but *Scotland* will be hook't in too ſome way or other; or though it be not, it will go near to fall in of it ſelf, either as part of *England*, or at leaſt *Britain*, or by ſome other fetch. It would undoubtedly run the fate of its Neighbour Kingdoms, and it is not a pin matter for a Title to that, which muſt come in at laſt, and when it comes will bring Title enough with it. Nature and Neceſſity make perhaps as good Titles as Law, and I know not whether the Law have any better then poſſeſſion. If the Pope get once poſſeſſion, as when he has got *England* and *Ireland*, I ſee not what can keep him from it, 'twil be to no more

more purpoſe to be ſollicitous for a Title, then for a man to look after a horſe, who is at his journies end. For Titles ſerve but to obtain, or hold what they pretend to, which he that has already, and ſo, that it cannot be taken away, no longer needs them. But if the worſt come to the worſt, why may not the Pope diſpenſe with a Title, as well as other things, altogether as hard, and not altogether ſo advantagious? Plenitude of power, ſet once on the tenterhooks, I believe will ſtretch as far as that, and what cannot he do, Who can do all which is neceſſary for the good of the Church, and who is alone to determine what is neceſſary? Who ſhall hinder him from calling the Bunch a Horn if he pleaſe?

But theſe are no jeſting matters. *England* and *Ireland* have both been challenged, and that before King *John* was born, though his reſignation be in truth the moſt ſpecious matter which can be alledged. *Scotland*, to put it out of doubt what would become of it, has been actually claim'd as well as the reſt. So that our Soveraign enjoys not one foot of land free from diſpute. It is to much purpoſe to diſpute of *Divine Right*, when, if there were no ſuch thing in the world, we have as much to fear from *Human*. The worſt *Divine Right* can do, is to make us dependent, and ſubject; and this they ſay we are, without relation to it. And 'tis this we fear, not caring much how the miſchief happens, if it cannot be avoided. It imports not much whether I be a ſlave by the misfortune of War or Birth, if I muſt tug at the Oar.

Baron. ad an. 1135. *n.* 21. 1173. *n.* 10. 1159. *n.* 21.

Ep. Ernif. 8. *ad Edw.* 1. *ap. Mat. Weſt. ad an.* 1301.

I tell you truly, thinking of theſe things has put me into a very bad humour. I diſtruſt every thing, and am not ſatisfy'd where learneder men than my ſelf are. I would be glad to have ſome better ſecurity than Preſcription; for though our Author ſay, and I think it a ſufficient Plea, I doubt, if you were Judges, his Authority would hardly keep us from being caſt. Nay I am ſure it would not; for he confeſſes the Pope allows it not, and his Judgment would overrule it at laſt. Beſides though He ſlip over the buſineſs of *Hen.* 2. the *Vatican Regiſter*, and *Petrus Bleſenſis* me thinks make too much noyſe to be ſlighted. What we think conſiderable may perhaps not prove ſo, when it comes

pag. 19.

comes to the Teſt; and however, no caution againſt you is too much. Again why may not *Conſtantins Donation* one day riſe up in Judgment againſt us? *Britain* was at that time one of the *Weſtern* Provinces of the *Roman* Empire, and, if this Deed be valid, undoubtedly paſt with the reſt. I know well enough there are among you who make bold with this evidence, and refuſe to admit it for Authentick: But there are too who ſtand ſtifly for it, and among theſe ſeveral Popes. Were there any likelyhood it would bring *Griſt* to the *Mil*, I do not think the *Palea* ſet before it, would hinder it from paſſing for good Wheat. In fine while *Human Right*, not only may, but actually is pretended at this day, we have reaſon to look about us. The *Lovain* Divines, if the Hiſtory of the *Iriſh* Remonſtrance ſay true, made it one of their four chief grounds, and the only ground of *Right*, for condemning that *Remonſtrance*, and ſince they declare not in particular whence they deriv'd the pretence of *Human Right*, make it neceſſary we ſhould be ſecured againſt all.

Omnes Italiæ ſeu Occidentalium Regionum Provinciæ, &c.

Cap. Conſtantinus. Diſt. 96.

Hiſt. of the Iriſh Remonſt. p. 117.

You ſee where the Shoe pinches; make it eaſy if you can, though when you have done your uttermoſt, I fear 'twill pinch ſtill. For you are but a ſingle man, and what a ſingle man can do, is not conſiderable. Beſides you conceal your ſelf, conſcious it ſeems of being diſowned by your fellows, who if they be otherwiſe perſwaded, what will your ſingle honeſty do us good? A Traytor or two in a Nation can do no great harm, and one or two honeſt men as little good. As you carry matters you ſeem to confeſs the generality is not of your mind. Nay how do I know that ſo much as ſingle you are as honeſt as you pretend, and truly mean as you ſay? You may with the liberty allowed in your Church, *Prevaricate* for ought I know, even though you ſhould renounce *Prevarication*; or you may, according to your comfortable doctrine of *Extrinſick Probability*, embrace to morrow what you reject to day. You are queſtionleſs much beholding to your Church; which with her infallible guidance, has brought you to that paſs, that if there be an honeſt man among you, He cannot make out that he is ſo, but muſt thank the good nature and Charity of his Neighbours for what reputation he has.

I must confeſs I am ſorry for the ſeverities which are falling on you, but yet my pity does not ſo far blind my Reaſon, but that I ſee they cannot complain of being treated like knaves, who cannot produce any ſatisfactory evidence that they are otherwiſe, and though they could, are too few to be taken notice of. For the eye of all Laws looks only on Generals, and 'tis not poſſible that every man in a nation ſhould have a particular Law made for him.

Pray excuſe me if I preſs too hard, and ſeem to add to your troubles, which I am ſo far from deſiring to increaſe, that I would eaſe it if I could. For, truly, notwithſtanding what I have ſaid, I make no queſtion but you are a very honeſt man, and take it upon your word that there are more as honeſt as your ſelf. And I declare freely, that I concur with the judgment of thoſe, * not only the moſt moderate, but in my opinion the moſt learned and moſt wiſe among us, who wiſh ſome indulgence to ſuch as you are. But theſe are but wiſhes; your fate depends upon a

* *and if they would perform that*

common duty, it is very probable, that, there appearing no more danger to threaten the Eſtate from them, than from other men, thoſe Laws which the iniquity of their fore-fathers *brought upon them by their* conſpiracies *and* Treaſons, *may be* ſuſpended *towards their* Innocent Children, *until ſuch time as their* peaceable demeanour *and* good carriage *ſhall make it appear juſt to be* aboliſhed. *Animadverſ. upon Fanaticiſm Fanatically imputed by a Perſon of Honour*, p. 261. Theſe things I yield to be reaſonable. 1. That where there is a real difference in Principles, the Government ſhould make a difference; becauſe the reaſon of the Law is the danger of thoſe Principles; which if ſome heartily renounce, there ſeems to be no ground that they ſhould ſuffer equally with thoſe who will not. *Dr. Stillingfleet. Anſwer to* S. C. *Ep. Apologet.* p. 476.

By Protection *I mean* ſuch an Exemption from the Rigour of our laws (*which were never deſigned againſt Perſons of their moderate Principles*) as might encourage them to ſpeak their minds freely, and to Proſelyte others of their own Communion, and may make a manifeſt diſtinction betwixt the good and ill-principled perſons of their Church. *That it is* Fit *as well as* Juſt *and charitable*; *That it is as much for our* Intereſt *as it is* Reaſonable *in it ſelf to allow them this* Protection; *beſides the conſiderations intimated in the beginning of this diſcourſe* § 11.

Several others might have been ſuggeſted, &c. Conſiderat. of preſ. Concernment. p. 400. *If theſe Seminaries, &c. would imploy their travails in the works of light and Doctrine according to the uſage of their Schools, and content themſelves with their Profeſſion and Devotion, &c. There is no doubt by Gods grace, but all colour and occaſion of ſhedding the blood of any more of her natural Subjects of this land, ſhould utterly ceaſe.* Execution for Juſtice, p. 38.

a greater and more efficacious wiſdom. Whatſoever it be, my ſpeaking plainly I conceive will do you no prejudice. For beſides that it gives you the opportunity of clearing your ſelf if you can, every body thinks, and any body may ſay as much as I do. And I think you will not take it amiſs if that be ſaid, which you know may. At leaſt I hope you will hear it with leaſt offence from

Your Friend

and

Servant.

FRIEND;

FRIEND,

I did not expect to be importun'd again at a time, when you may very well think I am but ill disposed to write. When I see the well meaning of such, as I am, interpreted for a piece *of dangerous craft*, *dreams of bold undertakers and men of speculation*; *when any kindness or Indulgence to a* Roman Votary, *of whatever Principle or subdivision he pretend to be, is concluded to be stilling a Tempest by whispering to it, or reclaiming a Viper by receiving him into the bosom*; while the unsheath'd Sword of the Law hangs over my head, and may fall, for ought I know, even while I am at it: I suppose you will easily believe I have no more stomach to writing, then the flattering fool had to his meat. Truly did not the question concern the duty of a good Subject, from which I believe no cross accident a sufficient dispensation, silence, or excuse should have been all my answer. For as the world goes I foresee no fruit of my writing, but to make the Author pass for a scribling Emperick, who makes the disease worse then it would be, by stirring humours unseasonably. I know not why it is not as wise to go on endlesly with Mercury and Coals, as continue to sow the seeds, as simple I think, of good intelligence and mutual love, and reap nothing but heightned jealousies and Animosities. To set me a writing, what purchases me the reputation of a Fool and a Knave to boot, and still to urge me to write, is to stretch the power you have over me with the farthest. Notwithstanding, the Subject being of the nature it is, I shall overcome the repugnance I have to meddle more, with the consideration of my duty, and let you and the world see, that *Jealousy*, and *Scorn*, and *Severity*, and whatever you please to lay on despicable Papists, shall not hinder them from being affected as they ought, to the Honour and security of their Prince and Country. Use me as you please, I shall continue to desire, and, as much as you will

let me, contribute to the ſervice of both. If the ſucceſs be not anſwerable to all the hopes, with which my ſimplicity has ſometimes flatter'd me, One better grounded, I am ſure will not deceive me. I hope receive from the Grace of God a conſtancy in my duty, whatever the face of things be, and from his goodneſs a recompence above what man can give, and *repoſita eſt hæc ſpes mea in ſinu meo.*

To come to your Letter, I muſt acknowledge I have ſeen the *Conſiderations* to which you refer me. Whatever I think of the Book, I think very well of the Author. And that for more then one Reaſon. There is in him great Reading, and great Judgment, and great Candor, and care to ſpeak ſtrong ſence in unoffenſive language, ſo that he diſobliges not, even when he confutes. In ſhort *He is* one, ſuch, as when I think my ſelf able to hold up a ſide, I would wiſh for an Adverſary. I wiſh him one as learned and as candid as himſelf, and then we may hope to ſee the Truth fairly try'd out between them; and let her carry it on Gods name on which ſide ſoever ſhe be. For what concerns my ſelf, I ſhall defend what I have ſaid againſt his exceptions, as well as I can, when you require it; which I hope you will not do, till you find me ſomething better diſpos'd.

Notwithſtanding I wiſh he had ſpared his two firſt Topicks, which I believe leſs digeſted then any thing he ſays beſides. They are framed againſt the ſuppoſition of a forcible ſettlement of Popery. May they be hang'd, without more ado, for grand Traytors as they are, who think ſuch a thought, if there be any, which becauſe I firmly believe there are not, I complain of a ſuppoſition too injurious. There needs no caſting about for Topicks to ſhew the inconveniences of ſuch a ſuppoſition, if it could be made. Force cannot be without miſchiefs too obvious to need proof, but likewiſe too exorbitant to aſperſe people with them on ſuppoſitions, and thoſe ſo unreaſonable and impoſſible. The Papiſt is not the hundredth, I am confident not the thouſandth man in this nation. When he does any thing by force, the old miracles muſt return, *one chaſe a thouſand, and two ten thouſand.* I ſay nothing to the firſt Topick, becauſe it has nothing to do with my preſent argument, and for another reaſon, which I think not ſo convenient

convenient to expreſs. Beſides I doubt not but the Authors zeal for Religion, will move him to conſider it over again, and give a ſolution to his own argument.

The ſecond is what you make the principal part of your letter, to which being to ſpeak more at large hereafter, I only obſerve for the preſent, that it ſeems ill ſuited to his purpoſe. It is *fear of the Popes pretences on* England *upon Human Right, in caſe the return of Popery ſhould give him opportunity to ſet them on foot.* Now I conceive the return of Popery neither makes, nor mars, in the caſe. For if the pretences be good, Proteſtants cannot avoid them; if bad, Papiſts will not admit them. Right is Right to Proteſtants, as well as Papiſts, and no Right has the ſame no force on us as you. Popery would not hinder us from pleading Preſcription, nor Preſcription from having its efficacy. It ſounds juſt as if he ſhould ſay: Let us keep the Pope out right or wrong, for if he ſhould come in, it may chance be found he has a Right which we are reſolved not to acknowledge, whether he have it or no. Such a diſcourſe I take to be diſhonourable to his own Religion, as if they car'd not to do unjuſtly, and hinder other folks of their due; dangerous to the Commonwealth; and ſuppoſing a falſity too palpable to admit of ſuppoſition, namely, that the Pope may have a Right to *England*. But this by the by, and for an exception to the fitneſs, not ſubſtance of his diſcourſe. For though I think it not proper to his purpoſe, and every jot as ſtrong againſt themſelves as us, yet the difficulty, as he has manag'd it, truly with more ſtrength then I have ſeen it urg'd elſewhere, both deſerves and requires an anſwer. I hope we ſhall no longer paſs for men blindly addicted to the Pope and his Intereſt, when the world ſees a Proteſtant take the Popes part, and a Papiſt the Kings againſt him. As tenacious as we are of what we believe his due, I truſt it will be acknowledged we believe nothing due, which may keep us from being true to the Intereſt of our Country, when all the diſcouragements we receive from our Country, hinder us not from ſtanding faithfully by it, in oppoſition to his undue pretences, whenſoever, and by whomſoever, and howſoever urg'd. And theſe are ſo urg'd, that no Arguments, with which I

have

have had occaſion to meddle, of his profeſt Champions, have given me ſo much to do.

But reſpiting this matter a little while, I will take the liberty to alter your order, and begin at the latter end of your letter, becauſe what you ſay there, is of another nature from what goes before, and things of a kind do beſt together. You object that *I am a ſingle, and, which is more, a conceal'd man, and all I ſay or do inconſiderable.* And 'tis true that I am inconſiderable enough all wayes, whether in learning or credit. Notwithſtanding I thought my ſelf able to anſwer your Objections. If you thought it not conſiderable, whether they were anſwered or no, you did ill to put me to ſo much fruitleſs pains. I thought you had ſufficiently conſidered why you engaged me to write, and lookt no farther then to anſwer as truly and plainly as I could. To tell me at laſt that all my pains are to no purpoſe, is a very unexpected objection, and to which all I can anſwer is to complain of you, for putting an inconſiderable employment upon me, who could have ſpent that inconſiderably taken up time with ſome more ſatisfaction, and it may be advantage to my ſelf.

As for *being ſingle*, if it were ſo, I ſhould hope there is no ſuch urgent neceſſity, that a man ſhould be puniſht, becauſe he has no company. To ſay, as you do, that the Eye of the Law cannot look on particulars, is ſomething ſurprizing, when we ſee them found out and brought to puniſhment every day; and why particulars may not, with as much eaſe, be indemnifi'd, as puniſht, I cannot comprehend. 'Tis a plain caſe that the care of the Law does extend to particulars, and in other caſes, provides for the ſecurity of every ſingle man, whoſe guilt excludes him not from their protection. Me thinks 'tis very hard that *Peter* muſt ſuffer becauſe he is not *Paul* too, or becauſe *Paul* will not think as *Peter* does, therefore *Peter* too muſt go to pot, and two be puniſht becauſe one offends. But to give you ſatisfaction in this point, according to your own fancy, conſider that Merit, and Demerit are general things, and proper objects of the care of Laws. Encouragement of the one, and Diſcouragement of the other, are the hinges on which Government turns. Law-makers, without num-

bring

bring heads, and counting how many come under one, or the other branch, frame their Laws in general, and propoſing Hopes and Fears to make them chuſe right, leave Particulars to the choice of their own wayes. Let the ſame Providence be extended to this caſe, which if it were not to others, Commonwealths would hardly ſubſiſt, and I have no more to deſire of you. I hope 'twere no diſgrace to the Law, if I were the only man who reap't benefit by it.

But indeed I am not ſingle. I have heretofore told you there are more of my mind, and I tell you again you ſhall find it ſo, if people once may freely ſay what they think. But while you involve us all, guilty or not guilty, in the ſame maſs of perdition; while we are ſure to be no jot better for ſpeaking, and not ſure but we may be much worſe, by adding diſſatisfactions among our ſelves to the ſeverities we fear from you; me thinks you ſhould not complain of our ſilence. This is to tye up a mans tongue, and then blame him for ſaying nothing. Pray let us ſee ſome good likely to come of ſpeaking, either to you, or our ſelves, or ſome body, before you oblige us to expoſe our ſelves to more harm then we are ſubject to already.

No Friend! 'Tis not Fear of being diſown'd by my fellows, which conceals me, but *Fear* I ſhall be no better; *Fear* I may be worſe lookt on by you; and if you will permit me to ſay it, *Grief*, for having that cauſe of Fear. Not but that I know well enough that every one of my Communion, is not of my perſwaſion, in this point of the Popes power. But you know I have often declared, I deſire favour only for thoſe who are. How many there be, truly I know not, nor will uſe any endeavours to know. For I fear you would not take it well, if any of us ſhould go about to make an eſtimate of the ſtrength of a party. There may be more, there may be fewer: But the fewer there be, the leſs reaſon, I ſhould think, to exclude them from your protection, ſince evidently there can be no danger from a few. How I fear, if we ſhould prove more then you imagin, you would then object number to us, with a little more ſpecioufneſs, and a great deal more concern! Since every body deſires to have as few Enemies as they can,

while

while you will not let us be friends; I cannot believe you much in earneſt, when you object fewneſs to us. You ſay this becauſe it came in your way, but otherwiſe would be better pleas'd, if I miſtake not, if we were fewer then we are. Indeed you urge not this fewneſs as dangerous, but as inconſiderable. But why ſhould Innocence be thought ſo inconſiderable a thing? Innocence is Innocence in one man as well as a thouſand, and ſhould not be caſt careleſly away. If the Laws would take into their protection ſuch only as ſhould give you the ſatisfaction, which your ſelves ſhould judge reaſonable, perhaps their number may prove great enough to deſerve their care, and then you would have what you deſir'd; however it is not unworthy the care of Laws to provide that no man ſhould ſuffer without demerit.

Now I am upon this Subject, pardon a little freedom, and a little Tautology. You complain I am ſingle, and conceal'd, and will not take notice that 'tis your dealing which makes me ſo. What reaſon has any body to joyn with me, what reaſon have I to diſcover my ſelf, when doing ſo will make us worſe then we are already, which I refer me to your ſelf if it be not bad enough? You will not be ſatisfy'd, but with what you know will cauſe diſſatisfaction among our ſelves. A man that had any jealouſy in his nature would ſtartle at this: but yet while your pretences for thus much are at leaſt ſpecious, thoſe whoſe conſcience will allow them, are willing to do as you would have them, ſatisfy you your own way, and upon your own Terms. When this is done you are as little ſatisfy'd as before. And out come harſh ſuſpitions, of I know not what craft and danger cover'd under theſe ſpecious Condeſcendencies: out come harſher things then bare ſuſpitions, the Sword of the Law hanging naked over our heads, and threatning us with all the ſharpneſs of its unavoydable edge. You will not let us paſs for good Subjects, till we have done what no Nation in Chriſtendom, beſides your ſelves, thinks neceſſary for the trial of good Subjects. Sure the *Engliſh* are not the only good Subjects, nor the only wiſe men of the world. However when a man has paſt the teſt of your uttermoſt ſcrupuloſity, and may be

be call'd a good Subject, even in your nice language, then has this good Subject to expect for his comfort, which will be taken, his twenty pound a month, or his two Thirds. Shall I venture to say, what has, by some less credulous, been long thought? As Princes resolv'd to make War, would yet be thought inclin'd to Peace, and seek to perswade the World they draw not their Swords but forc't by Justice and necessity, so deal you with us: no answer that is or can be made to their Reasons, shall keep the *Ratio ultima* from thundring at last, nor no return we make to your Objections shall hinder you from what you have determin'd concerning us. Whether we stand on our justification, or yield to you, whether innocent or guilty, They are perswaded we shall with all our several Principles and subdivisions, Wheat and Tares indifferently be bound up together into one condemned bundle, and thrown into the fire at last. This they gather partly from your objections, which in truth are wonderful cross, urging now Danger, and then Craft, now Number, and presently after Fewness, and when one is taken taken off, you never fail of another, nor shew any disposition that you ever will. They gather it more apparently from your Actions, more certain signs of the mind by far than words, and think it a foolish thing to guess at what you mean by what you say, when they see what you do. When a Prince fills the Frontiers with Magazines, and Souldiers, and Weapons, they think his intentions plain enough, and judge not of them by his manifests. If this be what we must trust to, which truly I shall be the last man who believes, if the good Subject must be condemned, that the Papist may not escape, and no hopes of living with comfort in this world, but by forfeiting our hopes of the next: It is not for us to think of any thing but the next World, and those comforts which will not fail us, of good Christians and a good Conscience. And I very earnestly entreat you to leave me in quiet, as long as the Law will let me, to study, what only becomes me, Patience. For to study longer how to satisfy those who will not be satisfy'd, and with a great deal of pains purchase the reputation of one more dangerous than those who will not, perhaps cannot, answer you, is not more uncomfortable than irrational.

Is not your next Objection a kind of ſecret Declaration (to uſe the Figure call'd a Bull) of your mind in this point? You would have it *impoſſible ſo much as for a ſingle perſon to give you ſatisfaction, becauſe one may prevaricate even while he renounces prevarication.* I cannot tell how far you are in earneſt; but this to my eye looks like a reſerve in ſtore, when other pretences fail, to maintain a reſolution of admitting no ſatisfaction. Otherwiſe can you ſeriouſly believe there is no truſting, no taking one anothers word, becauſe the Doctrine of Æquivocation has been taught in the world? If this were true, Cities and Societies had been left off by this time, and we had in Deſerts been experiencing the comforts of the returned Golden Age. For there is no living in ſociety without mutual truſt. Thoſe doctrines do not hinder us from keeping up ſociety ſtill, and dealing together with ſecurity enough, and if we can give ſecurity to one another, ſuch as ſerves the turn, and enables us to converſe and treat with confidence, what ſhould hinder but we may give it to you too?

But let us look upon the Objection: Some of our Communion have thought Æquivocation lawful, therefore none may be truſted. Do you think this Inference concluding? Will you have every one of our Communion anſwerable for what is ſaid by any one? Pray conſider whether Poſitions have not been maintain'd, by ſome of your Communion, with which if others ſhould be charged, they would think themſelves not fairly dealt with; it is no more reaſonable to impute theſe doctrines to our Communion, in which if there be who hold, there are too who contradict them. The *Yea*'s and the *No*'s ſhould not be confounded, and which is more unjuſt, the *No*'s condemn'd for the fault of the *Yea*'s. For my own particular, I could produce, if that would ſatisfie you, ſufficient Compurgators for my innocence in this particular, and ſufficient witneſſes, that I never believ'd Æquivocation lawful, nor was ever taught it was, nor ever heard of it without a ſcurvy character. But then if the fancy ſhould take you to except againſt my Compurgators, you would leave me no means to make out my Innocence, and yet I am very ſure I am innocent.

Yet

Yet let me tell you, if you go this way to work, you may chance be caught in your own Trap. For this is no point of Religion. It belongs purely to Learning, and may be held by men of different Communions. You read our Authors as well as your own, and I ſuppoſe aſſent to as much as you think true in them. Pray who ſhall be your Compurgator, that you do not your ſelf hold this doctrine which you object to me? And why may not I as well ſuſpect you of Prevarication, as you me? For 'tis nothing to purpoſe that it is not found in your Books: You may think it true by what you find in ours; and if you may, who ſhall ſecure me that you do not? And then there is no remedy, but we muſt all into the wilderneſs. But if you think your ſelf ſufficiently juſtifi'd, that no word or action of yours, has given a reaſonable ground of ſuſpicion, that you believe the doctrine true, truly I can ſay as much for my ſelf, and if need be, bring good proof of what I ſay. If this will not do, I know not how either of us can clear our ſelves, nor how we can deal with one another, or any body elſe with either of us.

I conceive therefore this Topic of yours is manifeſtly deceitful, and as a Canon overcharged burſts it ſelf inſtead of hitting the Enemy, becomes ineffectual by having too much force. For evidently if your Inference be true, *viz.* that none of us can be truſted, this is alſo true, that abſolutely none can be truſted, whether of us or you; and if there can be no Truſt, there can be no Society in the world; which is a Concluſion ſo deſtructive, that the Argument muſt of neceſſity be deceitful which infers it. To dive farther into the buſineſs belongs not to me. If you will not take this in payment, demand your debt where it is due. I for my part owe you no more on this account, than you me. For I never held Æquivocation lawful no more than you, and am no more to anſwer for it. I ſhall only ſay, that were we indeed ſuch Juglers as you ſeem to fear, ſo dextrous at the Legerdemain of Æquivocation, nothing you could do would exclude us from any benefit which other Engliſhmen enjoy. You know well enough that words cannot be ſo contriv'd, but ſophiſtry may work upon them, and if we thought it allowable to take advantage

by it, we ſhould long before this have taken all your Oaths; and it may be, by ſtretching our Conſcience a little farther, diſſembled in actions as well as words, and gone to Church, and taken your Sacraments, and continued Papiſts all the while. Alas! we need not trouble you for Phyſick, if we had ſuch a Remedy of our own in ſtore. But you know no diſcouragements, no apprehenſion, even of utter ruine, has prevailed with us to do, what yet you would perſwade us we think we lawfully may, and which if we did, we were ſtark mad to refuſe. The candid Author of the *Conſiderations* has truly obſerv'd, ſuch a liberty would deſtroy us, and I hope you are ſufficiently ſecured, if you cannot be undone by us but by undoing our ſelves.

S. 54.

In the next place you touch ſlightly upon Probable Opinions, more I ſuppoſe with the exuberancy of a flowing fancy, then check of a real concern. Theſe Doctrines have been ſo treated by thoſe of our Communion, that I believe you ſufficiently perſwaded there are not many of yours who have leſs kindneſs for them. I know not how you can uſe them worſe than to place them, as a late Author has done among the *Devils Morals*. However it be, they are plainly laid open to the view of every body, and we have taken care you ſhould not be ignorant of any thing we know concerning them. In my opinion it is needleſs for me to ſtay on a Subject ſo largely treated by better pens, guided by more acquaintance with them. All I ſhall return by way of anſwer is, that I can give you no more light than you have already, and that you may, if you truly apprehend any danger from them, provide for your own ſecurity, as you pleaſe, and treat thoſe, who ſhall refuſe to give it, as you pleaſe too. If this do not ſatisfie you, nothing that I can ſay, will.

Ægidius Gabrielis *ſpecimina Moralis Chriſtianæ & Diabolicæ. pag.*293.

Having ſaid thus much to your collateral exceptions, I come at laſt to the principal buſineſs of your Letter, thoſe Pretences which the Pope may have by *Human Right*. Though you obſerve it not, I conceive it beſt to follow the order of Time, and begin with the famous *Donation of Conſtantin*. Of this there is a very formal Charter extant in the Canon Law, and ſaid by ſome to be preſerv'd in the *Vatican*, by which

Cap. Conſtantinus *Diſt.*96.

which *Rome*, *Italy*, and all the Weſt are convey'd to the Pope, beſides other particulars, which concern not our queſtion. There is great diſagreement among learned men who treat of this Argument. Some labour to make good the *Charter*, others the *Donation* only, and there are who reject both the one and the other. I ſpeak only of our Authors, for as for yours they all agree with the latter. Now although I conceive that to overthrow either, is to overthrow both, (for if the *Charter* be forged, the *Donation* cannot be prov'd, of which this is the only Evidence produced or produceable ; and again if the *Donation* be diſproved, the *Charter* cannot be valid) yet to conſult my own eaſe, I chuſe only to ſpeak to the *Donation*, leſt the nice ſcrupuloſity of thoſe who think the *Donation* may be true, though the *Charter* be falſe, ſhould engage me in a new labour. For the *Charter* let it ſuffice that it is generally rejected by men of greateſt Learning and Judgment, and among the reſt by *Baronius* himſelf, one not likely to caſt away ſlightly any thing that makes for the advantage of the Pope. Baron. *ad an.* 1191. *n.* 52.

As for the *Donation*, it ſeems the product of a fancy little acquainted with Nature, and the courſe of human action, or at leaſt little minding them. *Conſtantin* was a Prince, who with great labour and fortune prevail'd againſt his powerful Competitors, and eſtabliſht the Empire in himſelf, and his family. I cannot eaſily imagin a conceit more wild, than that he ſhould ſo little value, what he had purchaſ't with ſo much toil and danger, as to make a preſent of the beſt part of it, to one who never ſo much as ask't him for it. Princes do not uſe to think ſo ſlightly of their Dominions. Soveraignty bears a greater rate then ſo, nor will they much ſooner conſent to forego a part, then the whole. Or if the ſuſpicion might paſs for not impoſſible in Princes, by long and quiet enjoyment of Power, grown weary, or perhaps inſenſible of what they enjoy, as men become cloy'd with the ſame conditions as well as the ſame meats ; yet 'tis hardly imaginable of ſuch a man as *Conſtantin*. He had fought hard, and often, and dangerouſly for what he had ; he had ſtaked againſt it his Life and Honour, and all he had and hoped. He who ſtruggles into

into Soveraignty through ſo many difficulties, muſt needs value it more, than to throw a great part of it away, as ſoon as he has got it. He might without any hazard or pains have quietly enjoy'd, almoſt as much, as if his Donation were real, he reſerv'd to himſelf. For certainly a compoſition might have taken up all differences with his Competitors, had he been careleſs of more than enjoying his own ſhare with ſafety. But he was a man of another ſpirit, and into whoſe head it never came to diſpoſſeſs himſelf of what he had obtained with ſo much dangerous pains. But if the motion came not from himſelf, it is more wild to fancy it ſhould proceed from any body elſe. Who would dare to ſpeak to him of diſmembring the Empire? And what Chriſtian (for Infidels ſure cannot be ſuſpected) would by ſo mad a zeal have expos'd all Chriſtianity to evident hazard? Had he once perceiv'd it an intereſted Religion, and which entertained bold ambitious thoughts, even to ſhare the Empire with him, and transfer to themſelves the fruit of his labours and victories, nothing but miracle could have kept him from thinking better of his old.

Again he he had Children whom he train'd up as Princes, and entruſted with the care of ſeveral Provinces. Will any man of ſenſe beleive, that after he had with much care made them fit for government, he ſhould leave them nothing to govern? and having bred them Princes in his life time, oblige them to turn private men after his death? Without all doubt if Nature would have allow'd him cauſleſsly to diſinherit his Children, and give away their Birth-right to Strangers, Prudence would have inſtructed him to diſpoſe them to this change of their Fortunes by their Education, and excepting Him, whom he deſign'd for Succeſſor in the part reſerv'd to himſelf, to enure the reſt by cuſtom to brook that private condition, in which he meant to place them. He was a good natur'd man, and lov'd his Children; he was a wiſe man, and his natural judgment wonderfully ſtrengthned by experience of all ſorts of affairs, could not be to ſeek how to lay means for the ends he purpoſed. This fancy leaves him neither natural affection nor wit: but ſuppoſes after he had rooted out thoſe inclinations which nature plants ſo powerfully in every

every body, and this without any demerit on his Childrens ſide, or any ſhew on his, who alwayes teſtify'd the affections of a Father to them, He ordered the matter ſo croſly, as to diſpoſe things quite contrary to what he intended to bring them.

But let it paſs for once: Let it be ſuppoſ'd, againſt nature and the courſe of his life, he would do ſuch a thing: may it be ſuppoſed he could? And I ſpeak with reference to Nature, not Law. Waving the many, and thoſe not eaſily anſwerable, legal exceptions which ſome have taken to this Grant, I only enquire what was likely to follow while men were men, and acted as men uſe to do. His Children were Princes, who by their Birth expected, and by their Education were acquainted with power. Unleſs they conſented to this Donation, and voluntarily yeilded up their pretenſions, I ſee not to what purpoſe it could be. Undoubtedly they would never be contented to ſit tamely down, and ſee their Birth-right given away againſt their wills. Or if they would, ſome of their Poſterity would have had more ambitious ſpirits, and ſtruggled with all their force to recover a height, to which they were once ſo near. 'Twas a very prepoſterous Piety to entail perpetual confuſion on the Empire, and expoſe it to greater and more laſting troubles, than thoſe from which the vertue and Fortune of *Conſtantin* had newly reſcu'd it. He that can fancy ſo wife a Prince ſhould entertain a Project of ſuch a deſperate conſequence, and ſo impoſſible to ſucceed, has a fancy, in my opinion, fitter for Romances than any thing elſe.

And yet peradventure there is not much leſs difficulty on the ſide of the Taker, than the Giver. 'Twas yet the Age of wooden *Chalices*, and golden Prieſts. Popes in thoſe days were holy men, and very free from the ſuſpition of Ambition. They were ſo far from looking after Worldly advancements, that they accepted not of Spiritual but by force. *Silveſter*, to whom the Donation is pretended to be made, did no way degenerate from the holineſs of his Predeceſſors, making himſelf one in the Catalogue of Popes who were ſaints. He was not a man to increaſe the heavy burthen, of the care of Souls, with the weight of temporal government;

ment; and far from being tempted by the glittering appearances of worldly greatneſs, I beleive would have fled from it, as a hinderance to a duty, which he took a great deal more to heart. Leſs diſtractions, than the Government of a good part of the World, were long after his days complained of by holy men, though perhaps not holyer than himſelf.

But let us ſuppoſe a man in veneration for ſanctity even to this day, overcome by the temptations of greatneſs, ſo powerful with frail nature, what ſhould he have done with this power, which *Conſtantine* is ſaid to have given him? The World was like to be well govern'd, when from the Caves of *Soracte*, a man ſhould ſuddainly be tranſplanted into an Imperial Throne, and He who had ſpent all his time in the meditation of Divine things, and treating with afflicted poor people, with whom he kept company in obſcurity and perpetual fear, ſet to rule great nations, full of unquiet Martial ſpirits, and as much uſ'd to war as He to his Books, and perhaps as much in love with it? Without doubt whoever invented this ſtory, was not uſed to check his aiery fancies with conſideration of what was likely or poſſible. Turn it which way you will, 'tis pure *Romance* on all ſides.

But I need not amuſe my ſelf with examining what was likely or not likely, when it appears, by the uniform conſent of all Hiſtorians, that actually there was no ſuch thing. The Empire was, as Nature and Reaſon required, governed, after the death of *Conſtantine*, by his Children, ſhared among them by himſelf, who is ſaid to have given ſo much away before. Thoſe very Provinces, ſaid to be conveyed to the Pope, were by his Teſtament bequeath'd to *Conſtans* and *Conſtantine*, and the Eaſt to *Conſtantius*. By vertue of this Teſtament they enter'd into Poſſeſſion, and were themſelves, and their ſucceſſors after them acknowledged for the only Lords of the Countries under them by all the reſt of the World, and by the contemporary Popes, as well as others, till at laſt the revolution of human things, rent the Weſt from the Eaſt by the breaking in of barbarous Nations; ſet up a new Empire in the Weſt, upon a new and independent Title; put a period to the Empire of the Eaſt by

by the *Turks*; raiſ'd the Pope to a temporal Principality; and brought the World into the condition it is in at preſent. The names and actions of theſe ſucceſſors of *Conſtantine*, with the wayes by which they came to their greatneſs, are recorded in Hiſtory, the Pope not taken notice of all the while, nor any claim of his ſo much as remembred. He had no hand in the ſucceſſion of the following Emperors, no voice in the election, no approbation of the Elect, no coronation, no acknowledgment, no ſign of ſupream Dominion, but as another Subject obey'd thoſe, who by Election; or ſucceſſion, or Force, came to be Emperors. I mean till the Empire was tranſlated to the Weſt, for as he had a great hand in that tranſlation, he has ever ſince appeared more; but I ſpeak of the times before. And all this is evident beyond all diſpute.

Reconcile this, who can, with *Conſtantins Donation*. If he put the Pope in poſſeſſion of the Weſtern Provinces, how could he bequeath them to his Son? And if he put him not in poſſeſſion, how could he be ſaid to give them? It is a mockery, not a gift, to ſay theſe Provinces are yours, which I keep to my ſelf during life, and diſpoſe to others after my death. *Livery* and *Seiſin* are pretty material circumſtances in ſuch conveyances, where nothing can be underſtood to paſs without them. If *Conſtantine* gave them, the Pope muſt have had them, and that he had them not is as plain as Hiſtory can make any thing, where it is particularly with uniform conſent recorded in whoſe hands theſe Weſtern Provinces were, what changes hapned from time to time, and by what means from the death of *Conſtantine*, till the Arms and favour of *France* under *Pipin* and his ſon *Charles* put into the Popes poſſeſſion moſt of what he has. It is known, and by *Bellarmine* himſelf confeſt, that Popes during thoſe times were Subjects, at leaſt *de facto*, which is enough for our preſent purpoſe, there needing no more to ſhew they had not thoſe Countries which *Conſtantine* is ſaid to have given to them. Not but that both he, and divers others after, and before him too, were extreamly munificent to the Church, by which munificence much Land in ſeveral places was ſetled on her by way of Alms, and actually in her poſſeſſion. But ſhe enjoy'd the revenues

only of those Lands; Administration of Justice, and all Regalities were reserv'd to the Temporal Lords. This has deceiv'd some, who finding mention of Possessions belonging to the Church in former Ages, imagined they so belonged to her then as they do now, with entire and independent subjection. Whereas till Popes were by the liberality and power of the *French* rais'd to the state of Temporal Princes, the Lands of the Church were in the same condition with the estates of other Subjects, the immediate owners receiving the Profits, and both their Lands and Themselves subject to the supreme Lord. They were given to other Churches as well as *Rome*, for maintenance of the Clergy and Poor, for the expences of buildings and reparations, and Divine Service, and that so plentifully, that some refused offered Patrimonies, others restored what they once had, not willing to be burthened with more than was needful. These Lands paid publick duties as other Lands did, till the Laws exempted them: But these things are besides the matter.

To return to our Argument; if the successors of *Constantin* continued the only known Masters of those very Countries, which are said to be given away; if Popes acknowledg'd them for such as well as the rest of the World, and never so much as put in any claim, or pretended any thing to the contrary; And all this be so plain, that nothing can be plainer; no fiction can be more palpable, nor more wild, than this of *Constantin's Donation*. It is undeniably evident that neither Popes nor Emperours, nor any body else in those dayes knew any thing of it. And it is as evident that they must know of it, if it had been at all. At least if they did not, none else could, in after times. This Donation was not heard of in the World till long after. *Baronius* thinks the pretended Charter forged by the *Grecians* after the tenth Age; *Marca* by the *Latins* in the time of *Pipin*, and by his consent, to stop the mouths of the *Grecians*, who made instance that the Lands recovered from the *Lombards*, and by Him given to the Church, should be restored to the Empire. However it be for the Time or Author of the fiction, that the Charter is a meer and late forgery is acknowledged, both by *Baronius*, and by most of the

Baron. *ad an.* 1191. *n.*52. Marca *de Conc. Sacerd. & Imp. l.*3. *c.*12.

the learned men even of the Popes Communion. That the *Donation* cannot be pretended with any ſhew of Reaſon, but in force of the Charter is plain. For 'tis next to madneſs to ſay the Weſt was given, and produce no Evidence of the Gift. Any man may claim any mans Eſtate with as much colour, and the Pope from ſuch a claim can expect no more ſucceſs than another man. But there is nothing which can be alledged in proof of this Donation, beſides this Charter. Wherefore the whole buſineſs, of which you ſeem to be jealous, is in it ſelf a pure *Chimera*, abſolutely contradicted by the courſe of Nature, and conſent of Hiſtory, and the only Evidence producible for it, acknowledged a forgery by our ſelves. And if this give you much diſquiet, I cannot but think you wonderful fearful. Let the worſt come to the worſt, 'tis not the caſe of *England* alone. *France* and *Spain* and *Germany* were Weſtern Provinces as well as *Britain*, and as much concern'd as we. While we have ſuch Outworks we need not much fear our Fort. The truth is our ſafety depends in reality on them. For let his Right be never ſo good, till it have ſeiz'd on them, it cannot faſten on us, and when it has, we cannot eſcape, let it be never ſo bad. Mean time I think you may ſleep quietly on, the noiſe which will be made in the World, when any of theſe Countries leave their native Princes, and become ſubject to a Forreigner, and quit their long ſetled Cuſtoms, and Laws and Liberties, in reverence to *Conſtantin's* Donation, will wake you time enough. But if you ſleep till then, you will go near to be the 8th. ſleeper, and alone out-ſlumber all the ſeven.

Thus far of our Journey we have good company with us, and the beſt part of Chriſtendom being of the Caravan, travel with ſecurity enough. But now the Road parts, and we muſt ſhift for our ſelves. *Henry* II. ſay you from *Baronius*, *acknowledged the Kingdom of* England *Feudatory to the Pope in a Letter extant in* Petrus Bleſenſis. You might have added the Cardinals Comment upon the Popes confirmation, or rather approbation of K. *Stephen's* election, which he ſays was therefore mentioned in the Coronation Oath, *becauſe the Kingdom was feudatory to the Pope, ſo that every new King receiv'd confirmation from him. Which alſo was* acknow-

Baron. *ad an.* 1135. 21.

Ad an. 1172. *n.*5. *acknowledged by* Hen. *II. in the Letter of* Bleſenſis. Beſides he produces afterwards from the Acts of *Alexander* III. a clauſe of the Oath made at the concluſion of the difference upon the death of S. *Thomas* of *Canterbury*, wherein the Kings both Father and Son are made to ſwear, *That they will receive and hold the Kingdom of* England *from the Pope, and neither they nor their ſucceſſors repute themſelves Kings of* England, *till the Popes* for the time being, *acknowledge them Catholick Kings.*

We have here the Cardinals word, the authority of his Acts, and the teſtimony of *Petrus Bleſenſis*. For the Cardinals word, it had been more for his credit, if he had not engaged in it a manifeſt untruth. People would have been more apt to believe him in other things. It is not known more certainly that there have been *Romans* and *Saxons*, *Danes* and *Normans* in this Iſland, than that the ſupreme Government, is, and alwayes has been, Independent on any but God. Truly I grieve, and am aſhamed to ſee, Zeal to the Pope, carry it in ſuch a man, above Zeal to Truth. For thus much of his ſaying, That *England is feudatory*, he does indeed bring proof, ſuch as it is; but for the latter part, that *every new King receiv'd Confirmation from the Pope*, he does not ſo much as offer at any. And yet the buſineſs is of ſuch a nature, that the proof muſt needs be evident and obvious, if the thing were true. But the contrary is notorious, every body, that knows any thing of our matters, knowing that no King of *England* ever receiv'd Confirmation from *Rome*, no not King *Stephen* himſelf.

There was indeed this preamble, not to the Coronation Oath, as *Baronius* miſtakes, but to the ratification of what King *Stephen* had promis'd, when he was Crown'd at *Weſtminſter*, in an Aſſembly at *Oxford*. *Ego* Stephanus *D. G. aſſenſu Cleri & Populi in Regem* Angliæ *electus, & à* Willielmo Cant. *Archiepiſcopo & S. Rom. Eccleſia Legato conſecratus, & ab* Innocentio *S. Rom. Sedis Pontifice confirmatus*, &c. Upon this plain ſong the Cardinal deſcents in the manner before rehears'd, and might as well and as truly have concluded that the Kingdom was likewiſe elective. For 'tis at leaſt true that he was elected, but it is not true that he was confirmed. The Popes Letter to the King is extant in

Richardus

Richardus Hagulſtadenſis. Confirmation is ſo far from appearing there, that the word is not ſo much as mentioned. He ſays only, that *ſince for avoiding the miſchiefs likely to enſue upon the death of* Henry *I. He had by unanimous conſent been choſen to ſucceed, He* (the Pope) *was well pleaſ'd with what was done, and with paternal affection receiv'd him for a ſpecial ſon of the* Rom. *Church, and would treat him with the ſame honour and familiarity which he had uſed to his Predeceſſor of famous memory.*

This is far enough from Confirmation, and the language of a ſupream Lord: No State in Chriſtendom, or out of Chriſtendom, but confirms Kings, as well as the Pope, if this be confirmation. When any Prince has a flaw in his Title, He ſeeks to be acknowledged by the Neighbour Princes, and when they acknowledge, They confirm him as much as the Pope did K. *Stephen.* And this was plainly the caſe. *Maud* the Empreſs, daughter to *Henry* I. was the true Heir of the Crown. King *Stephen* himſelf had by a ſolemn and late Oath acknowledged her right, and engaged to maintain it. He had reaſon to colour his proceedings as well as he could, and provide ſomething to ſay, that he might not paſs for a manifeſtly perjur'd man. And ſo he reckons up Election, and Conſecration, and Confirmation, which yet altogether were not ſufficient to make him a good Title, in the judgment even of the Pope himſelf. For when K. *Stephen*, deſirous to ſecure the ſucceſſion to his ſon *Euſtace*, required the Biſhops to crown him in his own life time, they with the hazard of their lives conſtantly refus'd to do it, being forbidden by the Pope to crown the ſon of a man who had uſurped the Kingdom contrary to his Oath.

Had the Pope been thought ſupream Lord, and his conſent neceſſary, K. *Stephen* muſt have had recourſe to him in the firſt place, and could not have taken the Crown till his ratification was come. But 'tis plain he was crowned before the Pope was made acquainted with the buſineſs, and before he knew how the Pope would take it, and however he had taken it, I believe would have kept the Crown which he had gotten. Indeed he thought it for the advantage of his affairs to call the Popes acknowledgment a Confirmation; but neither is there any ground in the Letter

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on which to raiſe ſuch a conſtruction; and beſides 'tis plain that 'twas not dependence of the Crown, but defect of Title in himſelf, to which that Confirmation, ſuch as it was, can be applied. So that *Baronius* is quite out, and the worſt Commenter that ever was; it being ſo far from true, that *every* new King receiv'd Confirmation from *Rome*, that *no one* ever did it, not the very King, out of whoſe fact he ſo vainly infers all the reſt. But that the force of Prejudice is almoſt inconceivable, one would hardly believe ſo learned and judicious a man ſhould falter in this manner. However it be, He muſt excuſe us from taking his word in a caſe, where no body, that I know, would take the word of the Pope himſelf.

For his Acts, they are a relation of no body knows who, and that me thinks is a pleaſant Title to no leſs than a Kingdom. The Author is a nameleſs man, of whom it cannot be underſtood either that he was well informed of what he delivered, or faithfully delivered what he was inform'd of. Had the Cardinal reflected a little better on it, I believe he would have been more tender in expoſing ſuch proofs to a cenſorious World. Theſe unauthentick Acts are plainly contradicted by ſuch as are Authentick. *Roger Hoveden* in his Annals has preſerv'd a Copy of the agreement made by the Popes Legates with *Henry* II. upon the death of S. *Thomas* of *Canterbury*. There the Oath is ſet down, as it was taken, which was this, *That They* (Father and Son) *would not recede from Pope* Alexander *and his Catholick Succeſſors, as long as he ſhould treat them like their Anceſtors, and Catholick Kings.* This was ſealed by the Kings and Legats for an authentick memory of what was concluded, and this *Baronius* himſelf has ſet down at large out of *Hoveden*. With *Hoveden* agree the other Hiſtorians neareſt thoſe times, *Bromton*, and *Gervaſius Dorobornenſis* (for the reſt mention not this particular at all) and with this agrees the relation, ſent by the Legats themſelves to the Archbiſhop of *Ravenna*, extant in *Hoveden*. Againſt ſo clear an evidence to bring a nameleſs Author, is more to weaken the credit of his own proofs than ſtrengthen the Popes claim. People will be wary how they truſt Acts produc'd by *Baronius*, when he produces ſuch as theſe, and be convinc'd, that, if the

Pope

Pope himself be infallible, all who write of him are not.

There remains *Blesensis* of whom so much is known, that he might possibly be employd to write a letter for the King to the Pope. But that he did write this letter, and by order from the King, needs some better proof than that it was found among his papers. It might be a rough draught, never sent: In so many Copies as have been made, from the time in which he lived, till the time his works appear'd in the world, it may have been alter'd. And indeed who considers what goes before, and what comes after, will see the two periods which concern this matter, do not well fit the place. The letter demands Counsel of the Pope, upon the undutiful carriage of his Children, whom though he could reduce by force to their duty, yet the affections of nature hindring him from that course, He prays the Pope to interpose, to whose arbitration he promises to stand. And this hangs pertinently together. But then to make the King say, that *England* is feudatory, and wish it may feel what the Pope can do, suits so ill with the rest, that it seems no part of the original piece, but patcht in by some body else, and he but a botcher. For what is it to purpose, to mention Vassalage, where He only seeks advice? As if the Pope could give counsel to none but Vassals, and as if it were the custom of Vassals to have recourse to their Lords for counsel. It is Justice and Protection which Vassals expect from their Lords, and this the King would have demanded of the Pope, if he had been his Subject. And then He tells him, that He has no material Arms, which is as much as to say, that He is not supreme Lord. For Soveraignty without material Arms, is no very material thing, and indeed is not Soveraignty. So that the King is made very wisely to say, and unsay, with the same breath. Again, while He himself abstains from Rigor, to press the Pope to the utmost rigor he can use, agrees very ill-favour'dly. Besides *Blesensis* dedicates his Letters to this very King. Whoever knows any thing of his humour, and how positive he alwayes was in maintaining less rights of the Crown, than its independency, will not easily believe he would permit such a clause to pass, and much

Vestræ jurisdictionis est Reg. Angliæ & quantum ad Feudatarii Juris obligationem vobis dumtaxat obnoxius teneor. Experiatur Anglia quid possit Rom. Pontifex, cui quia materialibus armis non utitur, patrimonium B. Petri spiritualibus studio tueatur. Pet. Bles. Ep. 136.

much leſs become publick. He was more jealous of his Authority than ſo. Farther, had ſuch a Letter, as is now read in *Bleſenſis*, been ever ſent by the King, *Baronius* ſure would have met with the original ſomewhere or other. For certainly the Vaſſalage of *England*, and Patrimony of St. *Peter* here, are things of that importance, that it deſerved ſome more than uſual care to preſerve an Evidence ſo extraordinary, and not to truſt to chance, and the credit of an inſignificant Copy, for ſo great, and ſo unknown an advantage of the Church. For if *Bleſenſis* had never been printed, the thing had never been heard of. If ſuch proofs as theſe may be hearkned to againſt Kingdoms, truly their Fate is very hard, and much worſe than of the meaneſt Subject who lives in them. He that in a Suit but of 40 ſhillings ſhould produce no better, were ſure to be caſt.

I conceive there is no great neceſſity of ſaying more, becauſe ſentence will alwaies be given for the Defendant, where the Proofs of the Plaintiff are inſufficient: but yet let us look into the matter a little farther, and ſee whether, this fancy of the Cardinals can be reconciled to Nature and Hiſtory. And I conſider in the firſt place, that the Tenure of Kingdoms is no private thing, to be gueſt at by incertain teſtimonies, pickt up and down among Authors of doubtful credit, but known as much as the Kingdoms themſelves, and no more concealable than their forms of Government. It may as well be doubted whether they be Kingdoms or Commonwealths, as whether they be independent or no. At every death, at every change of a King, there muſt be in Vaſſals, recourſe to the ſupream Lord, his conſent required, Homage performed, Duties paid, and all publickly in the face of the world, it concerning the ſupream Lord, and he alwaies taking care that theſe demonſtrations be made with the greateſt ſhew that can be. In all Treaties, in all Letters, and whatever tranſactions, the ſtile betwixt Independent Princes is different from that betwixt Lords and Vaſſals. In Competitions for the Crown, one part would alwaies fly to the ſupream Lord, and he, by his influence, make his Superiority appear. A hundred things of this nature muſt of neceſſity be regiſtred in authentick

thentick records, and read in the Hiſtories which treat of our matters. *Baronius* little reflected on the nature of the buſineſs, when inſtead of producing Authentick Records, whereof there muſt have been many at *Rome* as well as here, if there had been any ſuch thing, he alledges *Bleſenſis*. It cannot be ſaid that the Records are loſt by Time and Accidents. For their number, in a caſe ſo often hapning, would preſerve at leaſt ſome of them, and he has found records both more antient, and of leſs concern. Beſides Hiſtories remain ſtill. Whoever among ſo many as have writ, ever mentioned any homage done by our Kings to the Pope, or any confirmation required? Many letters are ſtill extant from the one to the other, and no hint of ſubjection in any of them. There have been many Competitions for the Crown, and none of the Pretenders ever dream't of fortifying their claims by the Influence of his ſupreme Lordſhip, though for the Influence He had as ſupreme Paſtor they deſired to make him their friend. In fine, not to inſiſt upon the ſilence of Hiſtories and Records, and want of proof in *Baronius*, it is evident that the Vaſſalage of a Kingdom not evidently to appear, is evidently not to be, becauſe it cannot be, without being notorious, and known to all who know the Kingdom.

In the next place I would fain underſtand, when, and by whom the Kingdom could be, or rather was made, thus ſubject to the Pope. For I wave at preſent the want of power in Kings, to do ſuch a thing, if they would, and only enquire which King it was, who can be ſuppoſed to have done it. If the ſuſpition fall on the times of the *Heptarchy*, which Age and want of Writers render more obſcure, it is apparent that no Act of any King then, could be binding to the whole Nation. For no King, let him be never ſo abſolute, can bind more than his own Kingdom. But beſides, that He, who will recur to thoſe times, may indeed hide himſelf in their darkneſs, but cannot ſtrike out of them any light to his pretence, and muſt ſpeak purely out of his own head, without any warrant or colour from any other Author, ſo I think 'tis a good argument that no ſuch thing, was then done, becauſe things of leſs moment, which were done then, are remembred. The grant of *Peter-*

pence by *Ina* of the *West-Saxons*, and *Offa* of the *Mercians*, is recorded too plainly, to leave a ſuſpicion that the grant of a Kingdom could be concealed. While there was exactneſs enough to take notice of ſingle pence, the Crown ſure could not paſs by unregarded. If any man fancy want of fidelity in our Hiſtorians, might poſſibly ſuppreſs ſo ungrateful a Truth, let him produce thoſe more faithful Forreigners, who have recorded it. But conſidering the Zeal of thoſe times, and mighty opinion they had of *Rome*, when the greateſt Kings frequently became Pilgrims, and ſometimes left their Kingdoms wholly, and became Monks there, the ſuſpicion lyes on the other ſide, it being more rational to fancy an amplification than ſuppreſſion of things to their advantage. However ſuch an Alms as a Kingdom could not but make a noiſe, loud enough to reach even our ears, and had the *Romescot* charity been extended to the Regalities, we muſt have heard of it, as well as of private houſes. By the way, I am not ignorant what Comments have been made on that Alms, but I think it not convenient to loſe time in confuting them. 'Tis to give them more credit than they deſerve; for he enhances the value of Trifles, who treats them like things of moment.

The memory of paſſages ſince the *Heptarchy* is too freſh, and too minute to leave place for ſuſpicion, that a matter of ſuch moment ſhould ſcape unobſerved. And beſides there is among the Works of *Lanfranc*, a Letter of *William* the *Conquerour* to Pope *Gregory* VII. which puts the matter out of doubt. That Pope had the confidence to demand of that King an acknowledgment of ſubjection, *Fidelitatem* or *Fealty*, as the phraſe runs; I know not upon what ground. For though I have read ſomewhere, that the Conquerour, to gain the Pope to his ſide when he attempted the enterprize, promis'd, in caſe of ſucceſs, to hold the Kingdom of the Pope, yet it appears by the Kings anſwer, that he was miſtaken who ſaid ſo. *Fidelitatem facere nolui, nec volo*, ſays the King, *quia nec ego promiſi, nec Anteceſſores meos, Anteceſſoribus tuis id feciſſe comperio.* So that till the Conqueſt *England* was free, and that it became ſubject ſince, ſure no body will imagin. The firſt Kings of the *Norman* race were men of too great ſpirits, and conteſted with the Pope, about

Ep. Lanfranc. *VII.*

about matters of leſs importance too warmly, to be ſuſpected of giving away their Kingdoms. He that reflects what buſtles there were about *Inveſtitures* in the dayes of *Henry* I. and *Immunities* of the Church in the dayes of *Henry* II. will find it neither likely nor poſſible the greateſt rights of the Crown ſhould be thrown away, while Princes were ſo tenacious of the leſs. It is true that both theſe Kings yielded at laſt to the Pope, but with a condeſcendence ſo far from any ſign of ſubjection, that there was more of appearance, than ſubſtance in the firſt caſe, and a great deal of caution in the ſecond, no ſubjection nor ſhew of any in either.

The Contraſt between *Henry* I. and the Pope was about *Inveſtitures*, the King deſirous to continue the cuſtom of ratifying the election of Biſhops and Abbots, by delivering a Ring and Staff to the Elect, and the Pope reſolv'd to break it. The concluſion was that the Ceremony ſhould no more be uſed, but ſo that the King ſhould chuſe, or cauſe to be choſen the perſon, and receive homage from him that was choſen. *Inveſtituram Annuli & Baculi indulſit in perpetuum, retento tamen electionis & regalium privilegio*, ſays *Will. Malmsbury*. Upon the ſame terms, a few years after the ſame difference was compounded with the Emperour, in which, if I underſtand any thing, the ſame expedient was then uſed, which is generally obſerved ſince, To preſerve reputation and Appearance to the Pope, and ſubſtance to Princes. For while They had the chief influence in elections, and none could be promoted but by their interpoſition, the reſt was a Ceremony, which might without any great prejudice, be left off. Again, when the perſons Elect were by homage to acknowledg themſelves Subjects to their Princes, they had as much as they deſir'd. Indeed till this point was yielded by the Pope (for it was a while ſtifly ſtood upon) no agreement could be made. But after, Peace ſoon followed. *In* Hen. I. *lib.* 5.

The quarrel of *Henry* II. was about the Cuſtoms of *Clarendon*, in which the chief point was that of *Appeals*. This point the Pope gain'd of the King, yet with this caution, that the Appellant ſhould give ſecurity to attempt nothing to the prejudice of King or Kingdom. It was now a time,

if ever, for the Popes ſupreme Lordſhip to appear. He was in the humour of aſſerting, at leaſt, all that belong'd to him. The World was incens'd againſt the King for the foulneſs of the late murther, and ready to take the Popes part. The King found it neceſſary to buy his peace, even at the rate of pretenſions very dear to him, and for which he had long and earneſtly contended. Had the Pope been ſupreme Lord, he would hardly have ſcaped ſo good cheap. Murther and Sacriledge might have coſt him the whole Kingdom. For feudatory Lands are forfeited by great crimes. However this ſupreme Dominion muſt needs have appeared in the tranſaction. The King was not in caſe to refuſe any thing due to the Pope, who yielded up what till then he thought not due; and beſides the tenor of the agreement muſt have been quite different, and drawn in terms us'd betwixt Vaſſals and Lords. But inſtead of an acknowledgment of this nature, all the diſadvantage the King had in treating, could not prevail with him to acknowledg the Pope ſo much as Pope, longer than the Pope ſhould acknowledg and treat him as King. So that by the favour of the Cardinals *Acts*, this King left the Crown as free as he found it, nor can the King be yet found out on whom the ſuſpicion ſhould fall, of having made it ſubject.

If I am not much miſtaken, the Popes in thoſe daies were of a judgment very different from that which *Baronius* has taken up in ours. For how can the conceit of a Vaſſalage in the time of this King conſiſt with what hapned a little after in the reign of K. *John*? Neither could K. *John* make *England* tributary, if it were ſo before, neither could the Pope deſire he ſhould. Beſides diſobedience in a Vaſſal, and, what is more ſtubborn contraſting with a ſupream Lord, eſpecially when that ſupream Lord is the Pope, would ſure have been thought as great a crime, as refuſing an Archbiſhop made without his privity and againſt his will. Why was not this laid to the Kings charge and called Rebellion? When the ſeverity of the proceedings againſt him, perhaps needed all the colour, which could be laid on. Without all doubt, the Pope when he had the King at his mercy, would never have been contented, with the bare acknowledgment

ledgment of ſubjection, if he had known ſubjection was due before. He had proſecuted the King to the utmoſt extremity: Interdicted the Kingdom; excommunicated his Perſon; and at laſt depoſed, and ſet the power of *France* upon him. It is not poſſible he ſhould take for ſufficient ſatisfaction for faults, which in his judgment deſerved all this rigor, a confeſſion that his own was his own, and a gift of what was his before. But the Kings reſignation made amends for all, and cleared ſcores ſo fully, that the Pope ever after was faſt to him, and heartily took his part in all his neceſſities. Then and not before, Popes aſſumed the liberty to term the Kings of *England* their *Vaſſals*; which is a plain acknowledgment that they underſtood this ſubmiſſion, and nothing elſe, authoriz'd them ſo to do. Agreeable to this were the outcries remembred by *M. Paris*, *Heu Anglia, Anglia; hactenus Princeps Provinciarum facta es ſub tributo—— ut Terra tua ab antiquo libera ancillaret excogitaſti—factus de Rege liberrimo Tributarius, firmarius, & Vaſſallus ſervitutis, &c.* 'Tis evident the novelty of the Kings ſubmiſſion put theſe complaints into the Peoples mouths, and that no ſuch thing had formerly been heard of. *Ad an.* 1216.

To conclude, commend me to this fiction of *Baronius* for an example of zeal not according to knowledge. To ſpeak without proof in a matter of this conſequence, is pretty well of it ſelf. But to want proof where the nature of the thing muſt needs afford a thouſand; to fancy the Tenure of a Kingdome, could lie conceal'd I know not how long, and at laſt be diſcovered by his either pains or luck, to be quite contrary to what was apprehended by the reſt of the world, which could no more be ignorant of the Tenure than of the Kingdom; to imagine *England* ſubject when no perſon can be imagined who ſhould ſubject it, nor time in which it ſhould become ſubject; to ſay nothing of the manifold inconſiſtency of his ſtory, and contradiction to palpable evidence: Theſe are ſtrains which as I admire in him, ſo I hope not often to find elſewhere. And for *Bleſenſis*, either he knew not what he ſaid, or, which is more likely, thoſe two periods have by chance or fraud crept into his writings without his privity. In fine, he is no good *Engliſhman*, who does not acknowledge *that the Kingdom of England*

is,

is, and at all times has been, free, and ſubject to none but God. A Declaration made both with particular reference to the Pope, and by thoſe who acknowledged his Authority in ſpirituals.

And ſo we are come at laſt to the point of greateſt difficulty, both of its own nature, and by the ſmartneſs with which 'tis preſt, the Fact of K. *John*. Our Author, not to leave the wound he makes without cure, aſſigns us *Preſcription* for a remedy. You have not an entire confidence in this plaiſter, and I muſt confeſs I cannot blame you; not that I think it bad, but I like better to be ſound, and need none. Moſt points of Law, and this of *Preſcription*, as well as the reſt, are full of learned Quibbles, and I do not love to truſt our ſecurity to a *moot caſe*. The rights of Kingdoms are of too great conſequence to depend on the *Triccum de Lege*. For what if ſome fiction of Law be pretended againſt our *Preſcription*? What if the Pope, by ſome Act or other of which we never had intelligence, have continued a *Legal*, or *Civil* poſſeſſion, all the time of our *Natural* poſſeſſion, and ſo interrupted or voided our *Preſcription*? It is not ſafe, in my opinion, to venture our whole ſtock in a bottom which poſſibly may prove leaky. Wherefore though *Preſcription* may do well enough, yet while we have, in my judgment, a better game to play, I think it beſt, as you ſay, to play ſurer.

Of the Conſiderations propos'd in this matter with great ſharpneſs by our Author, I take theſe to be the moſt material. That K. *John* paſt this grant *when he had undoubted right to the Crown without any Competitor*, his Nephew *Arthur* being dead before: That this right of his was then unconfin'd, *Magna Charta not being yet framed, nor any power communicated to Barons, or People, or Parliaments, for intermedling in the ſucceſſion:* And that however the *Deed was confirmed by his Barons, who were they alone that then had any thing to do in the greater affairs of State.* On theſe, becauſe they will decide the Queſtion, I ſhall inſiſt more largely, and endeavour to ſhew He is miſtaken in all three.

Firſt for the conſent of the Barons, although this clauſe *Communi Conſilio Baronum noſtrorum* be inſerted in the Charter, yet nothing can be more apparent, than that in truth there

there was no such thing. It was so far from this, that there was an expres's dissent. For *Stephen Langton* Archbishop of *Canterbury* protested solemnly against it, and this publickly at the high Altar before all the company, and in the name of the whole Kingdom. This protestation of his was averred to the Pope's face, and that in full Council, by *Will. Povick* or *Powevick*, one of the Embassadors at the Council of *Lyons*, whither he was sent to complain in behalf of the Kingdom. I think it will not be denied, but the Clergy in those dayes had at least as much influence on publick affairs, as the rest of the Nobility; and that there could be no common consent, where the Head of the Clergy publickly dissented. Especially considering that this protestation was not made for himself only, or his Order, but in the name of the whole Kingdom. For it can hardly be, that he should arrogate to himself to act in the name of the Kingdom, without the privity of the rest, and consent of so many at least as might keep his Act from appearing ridiculous. But that the rest of the Nobility were as far from consenting as the Clergy, is not left to gues's. Their sense is manifest in the next words of *Povick*, *In quod tributum nunquam Patres nostri consenserunt, nec aliquo tempore consentient*, as *Mat. Westm.* relates them, or according to *Mat. Paris*, *In quod nunquam Patres nobilium Regni, vel ipsi consenserunt, nec consentiunt, neque in futurum consentient*, &c. This was said in circumstances uncapable of the suspition of falsity. The man who spoke was an Embassador, commissionated to speak for the Kingdom. He spoke to the Pope himself, in a full Council, and while the memory of things was yet fresh, and if he had not said true, might have been convinc'd by every body perhaps in the company. But neither the Pope himself, who certainly knew the truth, and was most concern'd in it, nor any body else had anything to say against it. Besides even in the daies of K. *John*, the K. of *France*, and his Son *Lewis*, when *Walo* the Popes Legat would have diverted them from their design on *England*, by representing that the Kingdom held now of the Pope, maintained both to his face, that K. *John's* grant was void, and this among other things, because *there was no consent of the Barons.* It is not possible they should so confidently

Cui etiam manifeste contradictum fuit, ex parte universitatis Regni reclamatum, quod talia nullo modo facere potuisset per ei venerabilis Stephani Can. *Archiepiscopi, quo non erat tunc major in Regno*, &c. M. Westm. *ad an.* 1245. M. Paris *ad an.* 1245.

M. Paris *ad an.* 1216.

fidently avouch this to one who could not but know the truth, unleſs it had been notorious and undeniable even by *Walo* himſelf. Wherefore, it is manifeſt that the clauſe above mentioned was inſerted for forms ſake, without truth, it being not more known that there was a Charter, than that it was made without the conſent of the Nobility. What the conſequence of this is, will fall into conſideration by and by, when we have diſcours'd of what remains.

The next point is, that K. *John had an undoubted right to the Crown when He paſt this Deed.* Suppoſe he had, what then? Right to wear the Crown, and Right to give it away, are very different things, and very far from inferring one another. He urges, that *the Regal power in diſpoſing of the Crown was the ſame then, as at the conqueſt.* That *the Conqueror both receiv'd the Crown by gift from K.* Edward, *and diſpos'd of it by Teſtament.* That *although K.* Edwards *gift ſhould paſs for invalid, yet the very title of Conqueſt was ſufficient for an Arbitrary power of diſpoſing it, the very grant of* Magna Charta *from the Prince to the People being a plain Argument, that at leaſt the power of our* Norman *Princes was originally arbitrary and unconfin'd, till themſelves were pleas'd to reſtrain it by voluntary compacts, and conceſſions,* which hapned not till after the fact in queſtion. Thus does our Author diſcourſe, with a Tide of ſmartneſs, threaten Shipwrack to our liberties which way ſoever we ſteer. To deny an arbitrary right in the Conqueror, ſeems to queſtion the *right* of his ſucceſſors: To grant it, ſeems to confirm the *Deed* in queſtion, and expoſe us to the mercy of the Pope.

Before I anſwer particularly, I take leave to ſuppoſe, not becauſe it cannot be prov'd, but becauſe no body will require proof of what every body acknowledges, That rights queſtionable in their origin become unqueſtionable in tract of time. The *Goths* and *Vandals* broke into the *Roman Empire*, and maſtered a great part of it with a known violence, but unknown Juſtice. Should ear be given to the exceptions which might be made againſt their Title, and the right of their poſterity, and all who hold under them, queſtioned till the right of the firſt occupants were clearly made out, the world would be embroyled in inextricable confuſion, and ſuffer little leſs from our diſputes than their Arms.

Few

Few either Princes or private men, would enjoy their Eſtates with a ſafe Conſcience. The bonds of Obedience would be broken, the ſecurity of Life and Fortunes taken away, and the Ligaments of human ſociety diſſolv'd. Theſe things are ſo evidently contrary to the good of mankind, that ſpeculations, which would infer them, are evidently contrary to reaſon. Speculate what you will of Juſtice, it is moſt certain that to ruin the world is a moſt unjuſt thing; or, if you will criticize upon the notion, at leaſt irrational, and wicked, and intollerable. Wherefore whatever were the origin of eſtabliſh't Powers, when they are eſtabliſh't, and by long continuance become neceſſary to the quiet and ſecurity of mankind, they are moſt certainly juſt, and to queſtion them is madneſs in all, and Treaſon in Subjects. To examin by what means this comes to paſs, how true Right is acquired in Time, and even bad Titles become good at laſt, I conceive an Argument too high for me, and beſides ſee it needleſs to meddle with it. For while the thing is univerſally acknowledged, and cannot be deni'd without extream miſchief to the world, the labour of enquiring more particularly into it, may be diſpenc'd with. Two things I take to my preſent purpoſe, which I ſuppoſe none will deny me. 1. That the Right of ſucceeding Kings cannot be queſtioned on pretence of doubt, nay if you will, defect of *right* in the proceedings of ſuch as have reign'd ſo long ſince as the Conqueſt. 2. That *Power* and *Right* being manifeſtly two very different things, it follows not, that becauſe things were then done which ought not be queſtioned now, I mean with prejudice to Poſterity, that they were therefore well done, and according to *Right*.

To ſpeak now particularly to what is alledged, It is true that the *Conqueror* had, or pretended a Gift from K. *Edward*, I ſuppoſe to have ſomething to ſay. But 'tis apparent that, not K. *Edward*'s gift, but his own ſword gain'd him *England*. The *Ratio ultima Regum* was his only unanſwerable Argument, and had *Harold* got the Victory, and preſerv'd the Kingdom, he would have preſerved *Right* enough to it, notwithſtanding the Gift of K. *Edward*, and as much *right* been acknowledg'd in his Succeſſors, as now

in thoſe of the *Conqueror*. It is true alſo that the *Conqueror* did diſpoſe of the Kingdom to the prejudice of his eldeſt Son; but 'tis likewiſe true, that Duke *Robert* did claim, and put for the Crown, notwithſtanding his Fathers Teſtament, and had he prevailed, had tranſmitted a Right to his Poſterity, which by this time had been unqueſtionable. Theſe are matters purely of *Fact*, of which kind there are innumerable in Hiſtory, but from which, according to the maxim that *Fact does not infer Right*, no Argument can be drawn. What the *Conqueror* did, He did by the power which his Conqueſt gave him; ſucceſs and length of time has eſtabliſh't, what depends on his actions, into a firmneſs which admits of no diſpute. But this concludes not that all he did was juſt even in him, and much leſs that the ſame Actions are juſtifiable in his Succeſſors.

As for what is next urged, *That Conqueſt ſufficed for an arbitrary Power*, it is undoubtedly true; for he did arbitrarily diſpoſe of things as he pleaſed. But that his Conqueſt gave him Right ſo to do, or tranſmitted ſuch a Right to his Poſterity, is not to be admitted without very good proof. It is univerſally agreed that Conqueſt gives right only where the War is juſt; which I think ſignifies, that his Conqueſt gave him none at all. For the War is not juſt, unleſs he have a good Title who makes it, and if he have, Conqueſt only puts him into poſſeſſion of what was wrongfully with-held, but his Right is antecedent to, and independent of his Conqueſt. Indeed where the revenge of ſome collateral wrong, or other cauſe, put juſt Arms into the hands of any Prince, there what he gains is thought juſtly his own, by vertue of his Conqueſt. But this is not our caſe. The only cauſe of this War, was becauſe *Harold* with-held the Crown, to which if the *Conqueror* had a juſt Title, that which made it ſo gave him his *Right*; if he had not, the War was not juſt, and Conqueſt could give him none. Whether his Title were good or no, is a diſpute in which I am not concern'd, it not importing much to our times to know what was juſt in thoſe. For whether his Title were juſt, that of his preſent Succeſſors is not a jot the better, nor a jot the worſe, if it were ſtark naught. Wherefore I poſitively deny the Inference imply'd in our

Author's

Author's diſcourſe, the Conqueror did arbitrarily diſpoſe of the Kingdom, therefore K. *John* juſtly might, becauſe that Arbitrarineſs of his does not conclude he had *Right*, ſo much as to the Crown, and much leſs to diſpoſe as he pleas'd of it.

'Tis farther urged, That *the very granting of Magna Charta from the Prince to the People, is a plain Argument, that at leaſt the power of our* Norman *Princes was originally arbitrary, and unconfin'd, till themſelves were pleas'd to reſtrain it by voluntary compacts and conceſſions.* And this, as the former, is true of *Power*, but I cannot grant it of *Right*. The Fact is interpretable both ways, and may as well argue *Right* in the People to the things granted, as in Princes to grant them. And if Juſtice required that ſuch things ſhould be granted, the Power, which till the grants were paſt, hindred the People from what it was fit they ſhould have, can hardly be thought juſt. The Truth is, this difficulty would ask rather a Treatiſe, than a Letter. The Notions of *Power* and *Right* would be explained and ſetled: It would be ſhewn how *Right* is acquired, and how loſt: How the Freedom of Nature is changed into ſubjection; why, and how far, ſome command, others obey, and in vertue of what, with twenty other Conſiderations, neceſſary enough to clear the difficulty, as it ought, but too long for a Packet.

To ſay briefly as much as may ſerve turn; I obſerve that we uſe theſe words *Juſt* or *Right*, as all others, in different ſenſes. We call him a Juſt man, who gives to every one what the Law makes his due, in which ſenſe the Law is the Rule of *Juſt* and *Unjuſt*; *Juſt* meaning as much as agreeable, *Unjuſt* the ſame as contrary, to Law. But ſometimes we apply the ſame Terms to Laws themſelves, and ſay ſome are Juſt, others Unjuſt. As if Marriage, or the propagation of poſterity, were univerſally forbidden, or every body commanded to cut off their Legs or Arms, ſuch Laws would be thought, and called Unjuſt. In this caſe the notion of thoſe words is very different, from what it was before; Unjuſtice now ſignifying oppoſition, not to Law, which cannot be oppoſite to it ſelf, but to ſomething elſe, which the Law-makers had in their eye, when they made a

juſt Law, and which was their Rule, and directed them to order what they did, and not the contrary. If we reflect what this is, we ſhall find that *Juſt* and *Unjuſt* are ſaid with reference to the nature of man. For other things being made for his uſe, are not alwayes to be dealt with, as is moſt fitting for them, but as they may beſt ſerve him. But man muſt be uſed as his nature requires, and if he be not, we ſay he is wronged. I conceive therefore that the Root of Juſtice lyes in the nature of man, and that the conſideration of what is fitting, or unfit for it, is the original Rule of Juſt and Unjuſt. To deſcend to more particulars, and diſpute how far one man may juſtly be hindred from his particular good, for the greater good of the ſociety in which he lives, with the reſt of the Conſiderations which belong to Law-makers, is not to my purpoſe. It is enough if I obſerve that *Juſt* ſignifies *radically* Commenſurate, or Fit, *generally* implies Agreement, which Agreement is ſuppoſed to be made on ſight of what is fit for both parties agreeing. So that antecedently to Laws, which are, and ought to be in practice, at leaſt betwixt members of the ſame Commonwealth, look't on as the only Rules of Juſtice, there is a proportion or exigence of Nature, with reſpect to which ſome things are Juſt, others Unjuſt, and to which when Laws have not an eye, they themſelves are thought not Juſt. And this explication I take to be, not only true, but univerſally acknowledged. For if poſitive agreements be thought abſolutely neceſſary to the notion of Juſtice, I know not how that notion can be found in the Laws of Nature and Nations, which are the higheſt and moſt binding of all others, and yet are before, and manifeſtly without agreements.

To apply this to our caſe, I conſider that Government has been embrac'd for the good of the world, to avoid the miſchief of lawleſs humors deſtructive to ſociety, and that the Good of the Commonwealth is, or ought to be, the Princes Rule, from which when he ſwerves, his Action is not Juſt, becauſe unproportioned, and not ſuited to that exigence of Nature which is the root of Juſtice: yet it does not follow that a Prince every time he does unjuſtly, may be reſiſted. That is another, and at preſent, unconcerning Queſtion.

I conſider farther that nothing can more import the good of the Commonwealth than the Governors themſelves. For they are the main hinges on which the common good turns, and the Fountains from which all goods flow to particulars. If theſe be ſuch as may endanger long ſetled Laws, and Cuſtoms, and render the properties of ſubjects uncertain, and unſecure, the Commonwealth alwaies totters, and often falls. But all this will unavoidably follow, if the nomination of ſupream Governors be left to arbitrary pleaſure. They may be ſtrangers, and through ignorance unable to preſerve national Laws, They may be enemies, and through ill affection ſtudious to break them. In fine, to fancy that any thing can be more againſt the common good, than to want known rules of ſucceſſion, and that a Nation ſhould be bound to obey whoever is named by chance or humor, is to fancy there may be ſome member more conſiderable to the Body than the Head.

If this diſcourſe be good, it may be underſtood how the Arbitrary power even of Conquerors, may be bounded, otherwiſe than by their voluntary Compacts and Conceſſions, namely by nature, and by the proportion of their Actions to the ſubject on which they Act. It is true that antecedently to compacts, their Actions cannot be called *Unjuſt*, as *unjuſt* ſignifies breach of agreements: but as *Unjuſt* ſignifies breach of proportion, and the violation of what nature requires, They may be unjuſt, even before they bind themſelves by compact to obſerve this proportion. This now I concieve is our Caſe, and that, ſince the good of the Commonwealth is the Rule of the Princes Action, and that 'tis plainly againſt that good that their ſupream Governors ſhould be appointed arbitrarily, the arbitrary diſpoſitions of the Crown, mentioned by our Author were effects more of *Power* than *Right*. I think himſelf will grant, if thoſe *Norman* Princes were unconfin'd, till they voluntarily confin'd themſelves, that 'twas at leaſt reaſonable and fit they ſhould be confin'd in this point; and ſure, a Power to act unreaſonably, and unfitly, is not what the world means by *Right*: *Right* to do ill, founds very like *Right* to do wrong, and is in this caſe neither better nor worſe. For if arbitrary placing of Governors be againſt the

the good of the Commonwealth, and *Right* or *Juſt* ſignify as much as Fit, or Good, and that, as at preſent it muſt, with reſpect to the Commonwealth, there is a *Right* in the Commonwealth which requires their Princes ſhould not be ſet over them arbitrarily, and thoſe arbitrary diſpoſitions of the Crown were manifeſtly againſt *Right*. And yet perhaps it is enough that they were unreaſonable, and unfit. For unreaſonable Actions are no more to be drawn into conſequence than unjuſt ones, and peradventure bind no more, where collateral conſiderations do not give them a ſtrength, which they have not of themſelves.

I have alledged theſe conſiderations more to hint what may be ſaid, than becauſe I think nothing elſe can. For after all, it may with truth be maintained, that the power of the firſt *Norman* Princes, and of the Conqueror himſelf as well as the reſt, was actually confined, and in the manner our Author would have it, by voluntary Conceſſions, long before *Magna Charta*, and the eſtabliſhment of thoſe liberties to the ſubject, which he ſuppoſes confine it now. They all took Oaths at their Coronation, and bound themſelves to the obſervation of Juſtice. If an Oath do not bind a Prince, an Oath deliberately and ſolemnly made in the face of God and Man, in a matter too mainly concerning the good of the Commonwealth, for whoſe ſecurity he gives that Oath, and which ſhe accepts as full ſecurity, there is no talking of Confinement upon him, of ſecurity to a Commonwealth, of Laws, and Obligations, and Compacts, but all muſt be left to the arbitrary unconfin'd pleaſure of one man; a Poſition, which, in the Freedom of this part of the world, I ſuppoſe will not find much entertainment. However it is the ſtrength even of *Magna Charta* it ſelf, which cannot confine a Prince, if his Oath do not firſt confine him to obſerve it. Now who ſwears to render Juſtice, undoubtedly ſwears to render Juſtice to the Kingdom in the firſt place. For the concern of the whole, is the concern of all particulars, every one being as much, and perhaps more, intereſted in the Rights of the Kingdom, than in his private pretenſions. If any man doubt of this, I ſuppoſe no *Engliſhman* at leaſt will doubt but that he is to acquieſce to the Judgment of Parliament.

Parliament. And it is positively declared by Parliament, 40 *Ed.*3
that the Fact of K. *John* was contrary to his Coronation Oath, in which nevertheless for ought I can find, there is nothing more, than general expressions of rendring Justice. However it be, since it is a judged case, that K. *John* broke his Oath, in his arbitrary disposition of the Kingdom, it is a judged case, that his Power was confined in that particular, and this independently of *Magna Charta*, and all subsequent Compacts. And if his, then sure of all the rest, for they all swear as much as He.

But if any man will continue stiff in this opinion, and believe nothing able to confine the arbitrary power of Conquerors but their own Concessions, I would entreat him to direct me to that Concession which has confin'd their power in this point, besides their Coronation Oath. I do not find either in *Mag. Charta*, or any where else, any Article concerning the disposition of the Crown. Learneder men may know more, but my Ignorance perswades me, that if the *Norman* Princes had such a Right, and that Right can only be restrained by voluntary Concessions, and those direct to the point, their Successors have it still. And 'tis not easie to be perswaded otherwise, till the Concession appear. But this no Englishman can either say or think, nothing being more notorious than that it cannot be done now. Whoever will take the pains to examin how it comes to pass, that this original power is now restrained, will not easily be satisfi'd, if nothing else will satisfie him but a direct Concession. I believe he will be forc'd to confess at last, that such a Concession is neither extant, nor needful, and acknowledg that Power is bounded as truly and as strongly by Nature as Grants.

Upon the whole I conceive there may in the first *Norman* Princes be considered the Power of Conquerors, and Right of Kings. That their Power was unconfin'd enough, but ought not be drawn into Precedent, although it be against all Reason and Justice to question now those effects of their Power, which remain among us even to this day. For these have strength, not from their Power, but from what is able to turn Unjust into Just, as Titles, originally bad, become good in process of Time. That even their Right

was

was confined; the very notion of Right implying limitation. For right ſignifies proportion of the Action to the ſubject, ſo that an unconfined Right is not Right. That their Right was confined in this particular by the good of the Kingdom, as has been diſcours'd before; and though it had not Right to what they did is very far from inferring Right to what K. *John* did: the two remarkable precedents, mentioned by our Author, being ſo remarkably different from this caſe, that they can be no Precedents, nor warrant for it.

William Rufus reigned after his Father, and excluded his Brother, in truth by the favour of the Kingdom, yet claiming by his Fathers Teſtament. That claim may be allow'd, without allowing King *Johns* reſignation. For in the Conquerors fact there was no more, then of two ſons, both fit, both equal to the Kingdom, to prefer whom he thought fitteſt. The Laws and Liberties, and condition of the Kingdom was the ſame under either; ſo that apprehending in likelyhood no greater intereſt in the buſineſs than whether their King ſhould be called *William*, or *Robert*, They approved the Fathers choice, and willingly obey'd whom he appointed. But King *John's* Fact was quite of another ſtrain, A Stranger, and ſuch an one who could never become a denizen, one taken up with other cares, and dwelling too far off, to be ever able to act as was fitting, for the good of *England*, was made the ſupream Lord; and which was worſe, the Tenure of the Kingdom altered, and of free turn'd into ſubject. The Kingdom was ſenſible of their Intereſt in the buſineſs, and diſclaim'd the fact, both then and ever ſince. I am miſtaken if Reception of Laws, be not generally held a very material conſideration to their validity. But the caſes are otherwiſe ſo apparently different, that a Right in the Conqueror, to diſpoſe of the Crown as he did, may ſafely be granted, without any neceſſity, or colour, of allowing in conſequence a Right to King *John* to diſpoſe of it as he did.

If *Henry* 1. ſucceeded in vertue of the ſame Teſtament, his caſe is the ſame with the former. But this Gentlemans information was better than mine if he had other Title than Election, at leaſt till his Brother conſented, as he ſoon did,

did, the ſame title which K. *Stephen*, and after him K. *John* had to the Crown. I ſhould think their Examples a very good Reaſon, that the proceedings of thoſe times are not to be drawn into conſequence. For if they may, it will follow that the Kingdom of *England* perhaps is, at leaſt has been *Elective*. Which I ſuppoſe no Engliſhman will admit: if they may not, I know not to what purpoſe they are alledged.

For theſe reaſons I am perſwaded nothing can be drawn from the proceedings of the firſt *Norman* Princes to juſtify the *Reſignation* of King *John*, which is ſo far from being binding to our times, that it never had any validity at all. But not to leave the matter diſputable betwixt my No, and the Yea of who will maintain the contrary, I will fairly put it to Judgment, and ſay, whatever was done, and by whatever right, about the times of the Conqueſt, that K. *John* in particular could not validly do what he did; and that this has already been decided, and in ſuch manner, that there is nothing ſo firmly ſetled in the world, which may not admit of queſtion as well as this. In the reign of *Ed.* III. the Pope demanded the long unpaid one thouſand marks granted by K. *John*, and threatned by legal proceſs to recover this rent. A Parliament was called chiefly for this buſineſs, and it was unanimouſly reſolv'd, That *neither K. John, nor any other, could bring Himſelf, his Kingdom, or People into ſuch ſubjection, without their conſent, and againſt his Coronation Oath. And that in caſe the Pope ſhould by proceſs or otherwiſe, attempt to conſtrain the King or his Subjects to perform the premiſſes, They would become Parties, and reſiſt him with all their Power.* This is plain and peremptory, and directly to the point. I cannot but muſe to obſerve them ſpeak doubtingly of the matter of Fact, and the more becauſe Sr. *Tho. More* very poſitively denies the Church of *Rome* could in his, or any time, produce ſuch an Evidence. When I conſider He was a learned man, and no Enemy to the Pope, had great means of being well acquainted with Records, and paſſages of former times unknown to others, and ſpeaks as if he had good ground for what he ſaid, I hardly know what to think of it. I wiſh he had inform'd us what his grounds were; peradventure there is more to be ſaid than

Rot Parl. 40 Ed. 3.

Supplication of Souls.

we are aware of. But since he has not, and the Parliament does not directly deny the *Fact*, I for my part must be contented to take things at the worst, and not deny what I cannot disprove. I have this for my comfort, that if the *Fact* were true, it was in Sr. *Tho. More*'s words, *right naught worth*, and the Authority of Parliament to bear me out. By the way our Author in alledging the consent of the Barons, at that time the only representative of the Kingdom, speaks against a solemn Declaration of Parliament, and this undeniable proof may be joyned to what I produc'd before, to make good my denial of their consent. However the Question is positively decided, and by an Authority irrefragable to Englishmen.

But lest we should be suspected of partiality in our own case; let us put it to the Judgment of Forreigners. When the differences betwixt this King and the Barons became irreconcileable, they sought protection from *France*. The Pope sent a Legat to dissuade the *French* King and his Son from medling with a Kingdom, the Dominion whereof belonged now to the Church. The word was hardly out of the Legats mouth, when the King of *France* reply'd suddenly, That *England never had been, nor then was, nor ever should be the Patrimony of* Peter. And this, besides what he else alledged, because *no King could give away his Kingdom without consent of his Barons, an error which if the Pope would maintain; He would give a most pernicious example to all Kingdoms.* The Nobility present with great heat justify'd this speech of their King, and *declared they would stand for* that point to death, *viz. that it was not in the power of any King to transfer his Kingdom, or make it tributary at pleasure.* You see I spoke not altogether out of my own head, when I refus'd to yield an arbitrary right of disposing Kingdoms even to Conquerors, and that I shall not want who will take my part. But to let that pass, it cannot be attributed to the partiality of our either Country or Times, that we hold this Deed of K. *John* null, when it was condemned for such by those who were contemporaries to it, and as much abroad as at home. Who desires more security is in my opinion a very scrupulous man.

M. Paris *ad an.* 1216.

Notwithstanding let us put it to the Judgment of the very Con-

Contrivers of the Deed. I am much miſtaken if Themſelves had not the ſame ſentiments with the reſt of the world. If They did not underſtand well enough, that the conſent of the Barons was neceſſary to the validity of the Deed, why did they inſert that clauſe, *Communi Conſilio Baronum noſtrorum?* A thing of this conſequence undoubtedly was not careleſly hudled up. Great deliberation was without queſtion us'd, and they would never have put in, what they themſelves and every body elſe knew was falſe, but that they were ſenſible All was to no purpoſe without it. So that, in the hard choice of framing a Draught, either without Truth, or without validity, They had an eye to the latter, and let the firſt ſhift as it could. The truth is, They had reaſon; it being obvious enough, that if they could carry things out at preſent, the *Charter* it ſelf, as all Records are, would be a ſtrong Preſumption, for the truth of what it contains, to Poſterity. But ſince it is as evident, as that there was a *Charter*, that this Clauſe was untrue, it is likewiſe evident, that Thoſe who put it in, thought it neceſſary. Wherefore even in their Judgments the Grant was invalid, as wanting what themſelves thought abſolutely requiſite.

You now perceive of what importance this point is, of the Conſent of the Barons, of which I forbore to ſpeak, while I was examining whether they conſented or no. Neither do I mean to dilate upon it now: it being enough to obſerve, that the want of it abſolutely invalidates the Grant, and this in the Judgment, not only of the Framers, and of the King and Kingdom of *France*, but of Parliament. For you ſee They poſitively declare, that neither K. *John*, nor any other could bring the Kingdom into ſubjection, without conſent of the People, who at that time had none, but the Barons, to conſent for them. So that not to acquieſce in this point, is to refuſe the higheſt Authority of the Nation; and who does ſo is not fit to live in the Nation.

But ſhall I venture to joyn our Author himſelf to the reſt of this good company, and ſay, that whatever out of the ſtrength of his wit He alledges on the other ſide, yet this *Charter* is no more valid in his judgment, than in other folks?

And I do not mean that 'tis become now invalid, by the force of *Preſcription*, (for this he has ſufficiently declared) but that it was originally and always invalid. Truly I am miſtaken if this may not be concluded from what he ſays elſewhere, when diſ-engaged from the deſire of making good his Argument, he frankly diſcovers his true ſentiments. Pag. 239. conſidering an obſervation made in a former Letter, on the particular *Fact* of the Emperour *Frederick*, he replies, That *whether ſupreme Princes may put it into a Forreigners power to compel them* (to ceſſion) *by a direct deprivation of their Right of Government, is a caſe which he thinks none will eaſily grant to be either* Juſt *or* Secure *for the Commonwealth for which they were concern'd.* I conceive that when K. *John* reſign'd his Kingdom, and receiv'd it again to hold of the Pope, as principal Lord, to whom he became a Vaſſal, He put it into the power of a Forreigner to compel him, not only by Eccleſiaſtical Cenſures, but by a direct deprivation of his Right of Government. And this he declares to be Unjuſt, and Unſafe for the Commonwealth. King *John* then, even in his own opinion, did unjuſtly, and againſt the good of the Commonwealth, that is, had not Right to do what he did, and his Act was invalid from the beginning. I ſuppoſe therefore He will acknowledg on ſecond thoughts, that there are other ways to bound the actions of ſupreme Princes, beſides Compacts and Conceſſions, and that *Juſtice* and the *Safety of the Commonwealth*, are two of thoſe ways, in which other Princes were obliged to walk as well as K. *John*, and if they did not, their Actions are not to be drawn into example.

I will hope the Queſtion is reſolved to ſatisfaction. For I know no fairer, nor ſurer way to end a difference, than to put it to Judgment. And ſince 'tis judged on my ſide by an Authority from which there lyes no appeal, and by thoſe who one would expect ſhould be moſt partial on the other, Thoſe who contriv'd the Deed, and Him who urges it, I ſhould think there is no more to be deſir'd. If any mans curioſity reach further, he may find wherewith to ſatisfie it in thoſe who have already handled this Subject; particularly the learned *Crakanthrop.*

Of the Popes Temporal Monarchy.

But to touch briefly what is more largely treated elſewhere,

where, the *Charter* contradicts and deſtroys it ſelf, reſerving in one place, what it grants in another. There is in it an expreſs ſaving of the Rights given away, by this clauſe, *Salvis nobis & Hæredibus noſtris Juſtitiis, Libertatibus, & Regalibus noſtris.* Nothing can be more manifeſt, than that the Independency of the Crown belongs to the *Regalia*; and again, that ſubjection is oppoſite to Liberty. And yet the *Regalia*, and *Liberty* are expreſly reſerv'd, at the ſame time, when the Crown is made Dependent, and Subject. This is juſt, I give you a hundred pound, which hundred pound I keep to my ſelf. Which is an unvalid and ſelf-deſtructive Act, and paſſes nothing, and is in truth a piece of Non-ſence, not a Gift. Again, that the *Regalia Imperii* are *Inalienabilia* without conſent of the Subjects, is a point ſetled by a conſent ſo unanimous of all Nations, that there is no Maxim more known. 'Tis very troubleſome, and more idle, to fill paper with Quotations, for a point better known than the Author to be quoted.

This too is a receiv'd Maxim, that *Metus cadens in virum conſtantem* nuls the Act extorted by fear, of which, beſides a hundred examples in all nations, ſome even of Popes themſelves, who upon that ground have voided their own Acts, the Pope, to whom this Grant was made, has left a very pregnant inſtance in the caſe of this very King. The Barons a little after obtained the *Magna Charta* from him, confirmed by all the ſecurity they could deviſe. The Pope ſolemnly declares all proceedings void, becauſe extorted by fear. But it is moſt evident that K. *John* had no greater cauſe of fear, when he paſt the *Magna Charta*, than he had, when he ſigned the *Charter* to the Pope. *Pandulph* brought him to it, by exaggerating his imminent danger, the *French* with a vaſt Army ready to land, backt with the Eccleſiaſtical power of the Clergy, and Arms of the Laity, whereof many of the principal were ſaid to have oblig'd themſelves by authentick *Charters* to aſſiſt the *French*. The King yielded, *confuſus valde, & mente nimis perturbatus, & videns undiq; ſibi periculum immineri*, in the words of *M. Paris*. Could there be more fear from the Barons alone, than from the ſame Barons, and *French*, and Pope too? Or could his fear in one caſe make his Act void, and ſignify nothing in the other? So that there is this

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very good reaſon to believe, that the Pope himſelf, to whom the Kingdom was granted, judged the Grant nul, becauſe he declared an Act of the ſame King nul by a leſs fear, than that which extorted his Grant. This too was underſtood by thoſe who drew the Charter, and inſerted this other clauſe, *Non vi inducti, nec Timore coacti, ſed noſtra bona, ſpontaneaque voluntate.* By which it is apparent that there was more than one clauſe contrary to Truth, and that more was requiſite to the validity of the Act, even in the judgment of the Contrivers, than could be had. Which is that the Act was invalid, as wanting what themſelves thought neceſſary to make it valid.

By this, and much more alledged by divers, the Nullity of that Grant of K. *John* appears, I think, very undeniably; ſuppoſing in him all the Right, which can be ſuppoſed in any King of *England*. But by our Authors favour, what he takes for granted, that K. *John* had undoubted Right to the Crown, at the paſſing of this act, is very far from undoubted. A Siſter of *Arthur's* was then living, and long after, in whom the Right of *Arthur* could not but be. When K. *John* by his ſucceſs at *Mirabel* got *Arthur* into his hands, he made uſe of the opportunity of his victory to ſeize likewiſe upon his Siſter *Elianor*, whom he brought into *England*, and confin'd to *Briſtol* Caſtle. There was another, and I think an elder Siſter, but what became of her I know not. In likelyhood ſhe died before theſe times. But this Lady ſurviv'd her Uncle. The Pope mentions her, among thoſe who had right to the Crown, to the Embaſſadors of *Lewis*, who ſought to juſtify their Maſters title to *England*, and the French objected againſt her, what, if it have any force in their Law, has none in ours. For it is a plain caſe that the elder line takes place of the younger, in the inheritance of the Crown, and no act, or forfeiture of K. *John* could bar the right of the Children of his elder Brother, who were Heirs, not to *John*, but *Richard*, and by *John* wrongfully excluded. This Lady never married, but liv'd to a good Age, one example of many of the little comfort there is in unſupported greatneſs. She dy'd in the year 1241, and was buried among the *Nuns* of *Amesbury*, to whom by permiſſion of *Henry* III. She gave the Mannor of *Molſham*. Her *Right* was buried with her, but while ſhe lived, it cannot

M. Paris *ad an.* 1216.

M. Paris *ad an.* 1241. Ypodig. Neuſtriæ *p.* 549.

not be ſaid K. *John* had no Competitor. This being ſo, all pretence from K. *Johns* Fact, is cut up by the roots, there being not ſo much to be ſaid for it, as that himſelf had *right* to what he gave away. And yet for my part I think, if he had had a Right as unqueſtionable as our Author ſuppoſes, it is equally unqueſtionable that his gift was no more valid than if he had had none.

Whether I have acquitted my ſelf of what I undertook, and ſhewn the three material points of our Authors diſcourſe, *viz.*, *Conſent of the Barons*, *undoubted Right*, and *unconfin'd power in* K. *John*, are all miſtakes, I am not to be my own Judge. It is the readers right, and to him I leave it. To paſs farther, and examine what elſe is urged, ſeems needleſs. When the Root is dig'd up, the Branches may be let alone; and I am far from taking pleaſure in contradicting, eſpecially a man whoſe Learning and Candor I eſteem. Yet, becauſe peradventure to neglect what he ſays, may ſhew more unhandſom than to diſſent from it, I ſhall briefly deliver my opinion of the reſt.

In the next point, *viz.* That '*the Popes Title was the more confirm'd by his uninterrupted Practice*, I think He is miſtaken too. 'Tis true, that *Henry* III. did at his Coronation take an Oath of Fealty to the Pope, the ſame which his Father had taken before. And there was a very preſſing neceſſity, which oblig'd him ſo to do. *Lewis* Son to the King of *France* was in the Bowels of the Kingdom with a ſtrong Army, and many of the Nobility took his part. The King was a Child, unable to do any thing for himſelf, and forc'd to depend entirely on thoſe who would aſſiſt him. Among theſe the Pope was the moſt conſiderable, whoſe Legat was with him, and with unwearied earneſtneſs laboured for his Intereſt. It was not for him, in ſuch a conjuncture, to break with the Pope. For it was evidently to ruin himſelf. So that 'twas wiſely done of his Councel to provide for the greater danger firſt, and leave the reſt to time. It is true alſo that King *John* made uſe of this ſubjection, to annul his conceſſion to the Barons. But it does not therefore follow there was no Interruption. The Archbiſhop of *Canterbury* proteſted at very firſt, and in the name of the whole Kingdom; the Barons refus'd to ſubmit to the

Popes

Popes ſentence, and ſtood to their obtain'd Conceſſions notwithſtanding his Excommunications; the *French* rejected his claim with great ardor; ſolemn oppoſition was made in the Council of *Lions*, both by King and Kingdom, in the reign of *Henry* III. ſucceeding Kings poſitively deni'd all marks of ſubjection, and were abetted by unanimous conſent of Parliament. A Practice ſo much oppoſed I think cannot be called uninterrupted. Oppoſition ſure is Interruption, or at leaſt as good. For the the act of one part, can never confirm a practice. The Pope may do what he pleaſes, but unleſs the Kingdom do ſomething too, his Title will never be confirmed. It may be ſaid that the Tribute was paid by *Henry* III. ſuppoſe it were, what is this to the Kingdom? *Henry* III. could not be hindred from diſpoſing of his own, and paying what, and to whom he pleaſed. But his Act cannot be thought binding to the Kingdom, unleſs the Kingdom conſented; And the Kingdom was ſo far from conſenting that it poſitively diſſented. Wherefore the practice being urged as a Title to the Kingdom, it ſeems very plain, that this Title was ſo far from being *more confirm'd*, that it was not confirm'd at all, nor could be, by any practice of the Popes, unleſs the Kingdom had concurred to it.

The next point that *the Pope never ſolemnly deveſted himſelf*, I conceive not to purpoſe. For if his Title were never good, 'tis no matter whether he ever diſclaimed it or no. And yet, if the Author of the *Eulogium*, ſaid to be in the *Cotton* Library, be of any credit, this too may be deny'd. For he expreſly ſays, that in a Parliament at *London* 1214, where the Clergy *cum tota laicali ſecta* were preſent, the obligation was, by the Popes command, wholy releaſt. For my own part I muſt confeſs, I know not how far this Author may be truſted, not finding any mention of ſo remarkable a paſſage any where elſe. But though his credit be obſcure, this is clear, that if K. *Johns* Act were invalid of it ſelf, there needed no Act of the Popes to make it ſo. And I take it to be no leſs clear, that it was invalid, and that we may ſpare the labour of inquiring, whether the Pope ever gave away, what he truly never had.

The laſt thing urged is that *the Pope admits of no Preſcription*,

ſcription, which if it be true, the leſs reaſon have we to put our ſelves upon that trial. But I think it is not true. For the Canon Law allows *Preſcription*, and that againſt the Church of *Rome*, as well as any other. Only by way of Priviledge more time is required to bear her Plea, than others. But I have already declared, I like not to enter into that diſpute. It depends on Law, a ſtudy which the Intereſts and Paſſions of men have embroyl'd with ſo many intricate perplexities, that 'tis little better than a labyrinth without a Clew. Nothing in my opinion is more fruitleſs, nor perhaps more dangerous than to ſubmit the Rights of Princes to diſputes, where there will be alwayes ſomething to ſay, and not half of what is ſaid, underſtood, but by men of the Trade.

Beſides there is another Conſideration, which to my Judgment, abſolutely excludes this Topick. *Preſcription* is a Plea eſtabliſh't by the Civil, and Canon Laws, which appoint the caſes, the perſons, the times, and all conditions of it. Who has a Suit depending in a Court, where ſentence is pronounc't according to thoſe Laws, may be concern'd to ſtudy the nature of it: but with us, where neither Law is in force, it ſeems wonderfully from the purpoſe to amuſe our ſelves with it. What have we to do, to examin whether our Poſſeſſion have all the conditions required to *Preſcription* by thoſe Laws, which themſelves ſignifie nothing? If they pronounce ſentence for us, we are not a jot the better, and if againſt us, not a jot the worſe. *England* is a Country Independent of Forreigners, and govern'd by Laws and Cuſtoms of her own. What Emperours and Popes think fit to eſtabliſh among their Subjects, concerns us no more, than what we do concerns them. By our Laws the Grant of K. *John* is void, and has been poſitively declared ſo by the higheſt Tribunal among us, and from which there lyes no appeal. After this to put our ſelves upon the trial of *Preſcription*, ſeems a kind of ſubmiſſion to forreign Laws, a kind of confeſſing the point, and acknowledgment of a ſuperiour Power.

Again, the Law of *Preſcription* is, as other Laws, made for avoiding confuſion in the Commonwealth, and ſecuring the properties of members belonging to it. That

Commonwealths themselves are alwayes subject to the same Laws with their members, I cannot easily understand. The case of *John a Nokes* and *John a Stiles*, is different from the supreme Lord of *John a Nokes* and *John a Stiles*. It is true that generally Crowns are inherited by the same Rules with private Estates. But sometimes it happens otherwise, and 'tis the Interest of the Commonwealth, that what is not allow'd in one case, should be in another. The Crown of *England* has a privilege above all Estates which hold of it. For it takes away all defects; and this, whatever be in other places, is Law with us. I know not how idle time can be spent more idly than in unridling what is subtly proposed by the Sphinxes of Laws, with which we have nothing to do, while we have Laws of our own, whose meaning we know, and to whose authority we must and ought submit.

Notwithstanding, if Issue were joyn'd upon this point, I think there is no reason to doubt of the sentence. The Conditions required to a valid *Prescription* by those Laws, are *Possession*, continu'd all the time determined by Law; a *Title* probably presumed; and a *prudent Perswasion* that the thing in question belongs to the possessor, or at least to no body else, which they call *Bona Fides*. Now that the Crown of *England* has been in the *possession* of those who have worn it, neither is, nor can be doubted out of *Bedlam*. That this *possession* has lasted much longer, than any time required to *Prescription*, is as plain as the former. A hundred years is the longest time allow'd in any case, and bars the claim even of the Church of *Rome*; And, which peradventure is more properly the case, forty prescribes against a supreme Prince, if there be a *Title*, but *Time out of mind*, whether there be or no. Farther, that the *Title* of our Princes is something more than probably presum'd, and consequently that their *possession* has alwayes been accompani'd with *bona Fides*, is as undeniable as all the rest. So that I think our Author has reason to believe *Prescription* a very sufficient Plea against the Pope, though I am not of his mind, that 'tis our only one.

Leſſius *de Juſt. & Jure, lib. 2. cap. 6. Dub. 12.*

But this by the by, and to shew we need not fear fighting in this quarrel, at any weapon. Otherwise, to my appre-

apprehenſion, it is as rational to talk of the Laws of *China*, or *Japan*, as of Emperours and Popes, with relation to *England*. Local Laws concern only thoſe who live where they are in force; betwixt Nation and Nation there is no other Law, but that of Nations and Nature. And peradventure, if we look better into it, *Preſcription* may it ſelf be a Law of Nations. For though it be generally taken in the notion of Civil and Canon Lawyers, and go attended with the train of conditions plac't about it by them, yet it may as properly ſignifie the ſame with *immemorial Poſſeſſion*. So I think our Law underſtands it, without any notice of *Title* or *bona Fides*, or any thing elſe but *quiet Poſſeſſion*. And ſo it may be this learned Gentleman himſelf underſtood it, which if he did, it is undoubtedly, not only a ſufficient, but the beſt and ſtrongeſt Plea that can be. It is that whereon the firmneſs of moſt, perhaps all, Commonwealths in the world depends, and in which the conſent of Nations acknowledges an unqueſtionable force, and which, for that reaſon muſt needs be grounded on Nature. Becauſe Authors commonly take *Preſcription* in the other ſence, I thought it moſt convenient to go along with the cry, and ſpeak in their language. So taken, I refuſe it for a Judg, not that I fear it ſhould give ſentence againſt me, but becauſe I think it not qualifi'd to give ſentence, our caſe belonging not to the cogniſance of that Court. But taken in the other ſence, as I cannot refuſe to ſtand to that, on which the ſecurity of the world is eſtabliſh't, ſo it is plainly of my ſide. It being not more known that we are a Nation, than that we are independent of forreign ſubjection, and have time out of mind continued in the poſſeſſion of ſuch independency, and in the ſight, and with the acknowledgment of all the world about us.

I know not how my pen runs on beyond my deſign, and without neceſſity, for much I think might be ſpared. To make an end, ſince this *Fact* of K. *John* was evidently giving away what he had no power to give, no not though his right to the Crown had been undoubted, which 'tis plain it was not; ſince this want of power in him was acknowledged by the very Contrivers of the *Charter*, who were forc't to ſupply the Defects, of which they were ſen-

ſible, by Clauſes of Form, but evidently againſt Truth; ſince the Caſe is already a judg'd Caſe, both at home and abroad; ſince the judgment given at home is peremptorily concluſive, and unappealable; and has beſides been confirm'd by a Poſſeſſion, which to queſtion is to ſubvert the foundations of Government, and render all Common-wealths unſecure and tottering. I think no man of ſenſe can be mov'd by any thing, which can be ſaid on the Popes behalf in this point. But if ſo much ſcruple, and ſo little reaſon may be ſuſpected in our Nation, of all men in it the ſuſpicion ſhould not fall on thoſe of our Communion. We have given very good evidence of our ſence in this point, by publickly declaring it. For they were of our Communion who made the Act of Parliament, mention'd before, and ſolemnly reſolv'd this *Fact* in particular to be void and null. And they were of our Communion, who in another occaſion, declared the Independency of the *Engliſh* Crown, and its freedom from all earthly ſubjection, and this with relation particularly to the Pope. If any one be found ſcrupulous enough, and mad enough, againſt all reaſon, and the judgment of his Anceſtors of his own Communion, to refuſe to give you all imaginable ſecurity in this point, I conſent with all my heart you treat him as a man degenerated from the loyalty of his Anceſtors, and no company for good Subjects.

It is now time to make a ſtep into *Ireland*, in which though the novelty of ſtrange places be uſually full of wonder, yet I do not think to find any thing more wonderful, than this Bull of Pope *Adrian* which you mention. That all Iſlands, which have receiv'd Chriſtianity, ſhould *eo ipſo* belong to the Church of *Rome*, is a thing in which often conſideration, as it happens in other caſes, diminiſhes nothing of the ſurprize. The more I conſider, the more I wonder, and as wondring people do, gaze, and ſtare, and hardly know what to ſay. I have a great mind bluntly to deny the thing; as I would an incredible ſtory related without proof. Nothing that ever I heard, not the inchantment of *O Brazile* ſounds more incredibly. But *M. Paris* and the reſt, who record it, have never been taxed of feigning, and *Baronius* ſays he found it in the *Va-*

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tican. 'Tis not for me to oppoſe my perſwaſion to their credit; though all their credit, cannot binder it from ſounding ſtill incredibly. There are many Iſlands nearer *Rome*, *Cyprus*, and *Candia*, *Sicily*, *Sardignia* and the reſt. If the Pope have a claim, as I think he has, to ſome of theſe, ſurely it is not purely becauſe they are Iſlands. For to ſome I do not know that he ever pretended. The Coaſt of *America* has many very conſiderable, *Hiſpaniola*, *Cuba*, and our *Jamaica*, to ſay nothing of the reſt, and nearer at hand the *Canaries* as little as they are, are yet worth having. It is as incredible a thing, as any can be, that *Ireland* alone ſhould be claimed by a pretence common to innumerable others, there being no continent which has not many, and no claim made to any of the reſt. *England*, at leaſt *Britain*, is an Iſland too: How came it to ſcape, and all this buſtle made with King *John*, to gain a litigious, and unmaintainable pretence, to what was clearly the Popes before? Again, why has this pretence never been ſet a foot before, nor ſince, in no caſe, by no body? Were it not for this Bull, it could not be known, there ever was ſuch a conceit in the world, and notwithſtanding the Bull, it never entred, for ought I can learn, into the head of any other man.

But whence ſhould this ſubjection of Iſlands come? From their receiving Chriſtianity? If this were ſo, I perciev no difference betwixt Iſlands, and Continents, that Chriſtianity ſhould not work the ſame effects in both. For certainly what Chriſtianity does, it does every where. But that Chriſtianity has no ſuch effect, that *non eripit mortalia qui regna dat cœleſtia*, is known and confeſt, and has been diſcourſt enough formerly. If ſuch a thing were once admitted of Iſlands, ſuch another Bull might turn the whole world into one great Iſland, and all were the Popes without more ado. Or may the famous *Donation* of *Conſtantin*, becauſe it has the word *Iſlands*, ground this pretence? The word indeed is uſed once, but nothing more is ſaid of them, than that ſome revenues are granted out of ſome of them, as well as other places, towards maintaining lights at *Rome*. Beſides the *Donation* it ſelf ſignifies nothing, and if it did cannot be ſtretcht to *Ireland*, which never

Eccleſ. B B. Apoſt. Petri & Pauli *pro continuatione Luminariorum poſſeſſionum prædia contulimus--tam in oriente quam in occidente--vel diverſis Inſulis, &c. Privileg. Conſtan. diſt. 96.*

never was in the power of *Constantin* to dispose of. A claim to *all* Christian Islands can never have its origin from *Constantin*, who was not possess'd of, nor so much as acquainted with the hundredth part of them; and yet before the end of the world we hope *The sun of Justice* will shine upon them all.

Truly I am utterly at a loss, and which way soever I turn me, can make nothing of it, unless the *Right*, of which this Bull speaks, be understood of a *Spiritual Right*. Such an one the Pope may claim, and that in vertue of their receiving Christianity, and if he spoke only of Islands, I would think the reason was because, the question being only of *Ireland*, it was not to his purpose to speak of *Continents*. So that I would understand the Bull in this manner: You desire my favour and counsel, in your design upon *Ireland*, which you mean to undertake for the good of the Country in general, and the Church in particular; Islands belonging to my care, as well as the rest of the world: I am glad all the good be done there which can, and so approve your design, and wish you to go on. I know not whether I shall not pass for too bold an interpreter, but I will hope at least, that this is the sence; if it be not, I should be beholding to him who could instruct me what is.

But be it what it will, I am sure a single line, inserted in an old writing, no body knows why, or upon what ground, and never insisted on before, nor since, no not by the most partial Abetters of the Popes Prerogatives, is a sorry evidence by which to claim a Kingdom. The Kings of *England* have held that Country above 500 years, and all that time been acknowledged absolute Lords of it, by all the world, and Popes as well as the rest. No Homage, no Tribute, no Investiture, no sign of subjection to the Pope, has all this while appeared, save in the resignation of King *John*, nothing perform'd on our side, nothing so much as demanded on the other. The world would run into a fine confusion, if such a Title should be questioned, because some words are found in a writing 500 years ago, which no body can understand. Popes have not been careless in their Rights: *England* in some of the intermediate times has

has been even ſcrupulouſly affected to them, and a great deal more ready to add to, than detract from their due. It is not poſſible but, if this Title had been any thing worth we ſhould have heard of it at ſome time or other, elſewhere than in the Bull. At leaſt in the tranſactions with King *John*, it muſt of neceſſity have appeared. That King was not in terms to refuſe any thing the Pope ſhould demand. Had he known of any right to *Ireland*, it had been but ſaying ſo: for it was upon the matter, *Aſk and Have*, any pretence in that conjuncture would have ſerved turn. And this Bull was not then ſo old, that it could be worn out of memory. But it is plain that *England* and *Ireland* are both on the ſame terms in the grant of King *John*, and no right pretended to either but in vertue of that grant. Neither indeed can ſuch a pretence conſiſt with the words of it. Inſtead of *Offerimus & libere concedimus*, it muſt have been ſaid, we reſtore, or acknowledge, or ſomething equivalent by which there might have appear'd not creation of a new Right, but recognition of an old. For that cannot be granted, which is the Grantee's before the Grant, nor does a ſupream Lord receive a Fee from a Vaſſal by way of gift; but obliges the Vaſſal to acknowledge by Homage, and cuſtomary duties that it is ſo; or if diſuſe have withheld his duties, and weakned his Title, to reſtore things again to their old condition. This, inſtead of granting, King *John* ſhould, and the Pope would have made him, have done, had there been any knowledge of a claim to *Ireland* independently of this Grant. So that whatever Pope *Adrian* mean't, it is evident his Succeſſors never underſtood his meaning gave them any right to that Iſland. Nothing is more fooliſh, than to catch at words, and interpret the meaning by the ſound, when we have Actions, immemorial practice, and cuſtom to guide us ſecurely, and aſſure us the meaning, whatever it be cannot be contrary to theſe. Allow that method once, and you leave no ſtability, even in what the good of mankind requires ſhould be moſt ſtable, the ſettlement of Commonwealths.

In ſhort, if our Kings Title to *Ireland* be not good, there is no good Title in the world. At leaſt I know none eſtabliſh't on a ſurer foundation. And were it the queſtion, believe

believe I could make it out. But we are not now enquiring what Title our Kings have, but whether the Pope have any. For which reason I forbear to meddle with the Book you mention, which seeks to overthrow the Title of *England*, not to establish that of the Pope. Only in short I must acknowledg I never read any thing with more grief, nor so much shame. The best is, the Curs'd Cow has wondrous short horns. As ill as He means, in my opinion, he does more good than harm. For Truth is well proved, when 'tis perceived it cannot be disproved but weakly. And nothing is weaker than his discourse. What is most material, is directly contrary to History; but his chief business is to bring, as you say, hard names to prove, what is not a jot to purpose when 'tis proved. He casts away the greatest part of his pains upon the Punctilios required to *Prescription* by the Civil and Canon Laws, in Suits betwixt Subject and Subject, and never considers that those Punctilios, and those Laws have nothing to do with the case, and that the Rights of Princes are establish't upon a higher, and more steady Basis, than local and mutable constitutions. But I have discours'd of this point before, and mean not to trouble you with repetitions, and that in a Question which concerns me not. No better answer can, nor other need, be given to this Book, than what was given in *Ireland*, where *an.* 1648. the *Supreme Council* of the Confederat Catholicks, caus'd it to be burn't at *Kilkenny* by the common Hangman, and the National Congregation too of the *Irish* Clergy (I mean *Roman Catholick*) at *Dublin*, *an.* 1666. condemn'd it to the same fate. And for the rest, whoever doubts of his Majesties *right*, to all and every part of his Dominions, is a Traitor without more ado, and cannot complain if he be us'd like one, nor any body for him.

Hist. of the *Irish* Remonst p. 739. & 742.

This answer I conceive may serve for *Scotland* too, with which I shall make short work, believing your Jealousies in that particular are not very pressing. The only stumbling block that I know in this matter, is the letter you cite of *Boniface* VIII. to *Edward* I. in which, with a phrase as unintelligible, as that of *Adrians* Bull, it is said, *qualiter ab antiquis temporibus Regnum Scotiæ pleno jure pertinuit, & ad-*

Mat. Westm. *ad an.* 1301.

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huc pertinere dignoſcitur ad Eccleſiam ſupradictam, meaning the *Roman*. And again, *ex quibus nulli in dubium veniat Regnum Scotiæ prælibatum ad præfatam Rom. Eccleſiam pertinere*. While I read this Letter, and the Kings anſwer, I was inclin'd to believe, the meaning of this was, that the Pope as a common Father of Chriſtendom, had right to interpoſe in emergent differences in *Scotland*, as well as other places. I obſerved that he alledges *Debitum Paſtoralis Officii* for the reaſon why he meddles, and reſpect to his ſeat and Perſon, for the motive why the King ſhould yield to his requeſt. Again, the *Ex quibus* whence he concludes this ſubjection, are becauſe *Scotland uſed not to admit a Legat, not particularly directed to that Kingdom*; That *the Arch Biſhop of York could not obtain ſentence at* Rome *in favour of the Primacy claimed by him over the* Scottiſh *Churches*; and that *the Kingdom was converted by the Relicks of* Saint *Andrew*. Theſe have ſo little to do with Civil ſubjection to *Rome* (and what he mentions beſides has a great deal leſs) that I could not imagine a Pope, from ſuch Premiſes, could draw ſuch a concluſion. Beſides that the King in his anſwer does not take the leaſt notice of ſuch a ſence. But coming to read the anſwer of the Nobility, to whom the King purpoſely left that point, I percieve they underſtood the words as they ſounded. I ſhall therefore give their anſwer, and make an end. *Your letters being read*, ſay they, *jam ſenſibus noſtris admiranda, quam hactenus inaudita in jis audivimus contineri. Scimus enim —— nec ullis temporibus ipſum regnum in temporalibus pertinuit, vel pertinet quovis jure ad Eccleſiam veſtram ſupradictam*, and again, *nec etiam Reges Scotorum & Regnum aliis quam Regibus Angliæ ſubfuerunt, vel ſubjici conſueverunt*. Purſuant hereunto, They would not conſent the King ſhould ſend Proctors, as the Pope deſir'd, to *Rome*, to make out his Title there; nay they declare, They would not permit the King to do it, although he would, it being too great a prejudice to his known Rights to ſubmit them to Trial. If this do not ſatisfy I know not what will. At leaſt it did ſatisfy the Pope, who in *Pol. Virgils* words, *ſtatim refrixit, ut ſcilicet ſi pertinacius contenderet, ne inhoneſte cauſa caderet*, and never, that I know touch'e upon this ſtring more. And it muſt ſatisfy all Engliſhmen. For it was a reſolution of

Pol. Virgil *lib.* 17 *in* Ed. 4.

Parliament, or at leaſt of a great Council of the Nobility, which in thoſe days was equivalent.

I Am come to the end of your Letter, and I think of writing too. Unleſs you do ſomething on your ſide, beſides asking queſtions, painful to reſolve, and fruitleſs when they are reſolved, you have my laſt, (it may be your full wiſh, my firſt too;) For I cannot anſwer it to reaſon, to continue ſowing in barren ground, and believe, while ſo much trouble is coming on us all, your ſelf would counſel me not to run into more, that of breaking my brains to no purpoſe. There has been already ſaid, what, I hoped, might have wrought more favourable inclinations towards us. Since the Phyſick works not, whether by your indiſpoſition, or its own inefficacy, 'tis peradventure to play the fooliſh, as well as unskilful, Emperick, to go on adminiſtring. But yet ſince Loſers have leave to talk, permit me to make uſe of that liberty, it may be the only one which I ſhall long enjoy.

As much reaſon as I have to grieve, yet truly I cannot but wonder as much at your proceedings. Can it poſſibly be your intereſt to keep a party alwayes in fear of the Law, and by that fear prompted to wiſh a change in it? I miſtake if it be not the Intereſt of every Commonwealth, that all the members be heartily concern'd for the maintenance of Law, becauſe it is the main ſecurity of Liberty, and Property, and all worldly goods. But in our caſe the Law, inſtead of ſecuring, threatens our Liberties, and Properties, and Lives, nor can we be concerned in the preſervation of it, without being unconcerned in the preſervation of our ſelves. For my life I cannot imagin by what Policy you are guided, to lay upon never ſo inconſiderable a party, a neceſſity ſo ſtrong as that of ſelf-preſervation, to wiſh an alteration of Law. The ſword of Juſtice ſhould be the Protection, and comfort of Good men, and a terrour only to the bad: and certainly you do not think us all ſuch. I believe our greateſt fault is that you apprehend us deſirous of innovation. But pray can you with reaſon blame us, if we deſire to live leſs uneaſily? I am very certain, there are none in the Nation, more heartily affected to

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the liberty and all advantages of it, than we are by inclination, and ſhould more appear by all juſtifiable actions, if you would let us live with any comfort in it.

Again, can it be for your intereſt, to force part of the Subjects of *England*, alwayes to depend on Forreigners, by their interpoſition to ſeek relief from their preſſures, and in return be affected to them, and inclined by way of gratitude to promote their deſires? Can it be your intereſt to oblige us to ſend our Children beyond Sea, to be bred up to forreign cuſtoms and inclinations, and ſuck in principles which you diſlike? To have ſo much money as they, and ſo many religious of both ſexes require, carried out of the Land, and ſpent in other Countreys? To complain of Seminaries and increaſe their number? For if we cannot maintain our Children at home, we muſt ſend them abroad, and they are not now to begin to live on Alms, if we cannot ſend money with them, and that more plentifully than we perhaps ſhould allow them.

But to let theſe things alone, do you think it for your credit not to do as you would be done by? to gain the imputation of perſecuters, perſecuters of a Religion profeſt by moſt of your neighbours, and of a Church from which you derive your ſelves? For I hope you do not think to avoid that imputation, becauſe what you do, you do by Law. The primitive Chriſtians ſuffered all by Law, and by Authority, and yet are thought perſecuted, and Martyrs even by your ſelves. Nor were Q. *Mary*'s proceedings without Law, and Law, not made by her for the preſent occaſion, but in force before ſhe came to the Crown. You have reaſon to reproach her times; but then ſure you have the ſame reaſon not to bring the ſame reproach on your own: for burning is not much worſe, than hanging and quartering. If you are perſwaded Perſecution, or if that word diſlike you, Puniſhment for Religion adviſable; at leaſt conſider that our caſe is different from that of other diſſenters. We changed not from the Law, but the Law from us. We are to the Reformation as Judaiſm and Paganiſm to the Goſpel, before it. The Primitive Chriſtians, when Authority came to be on their ſide, never made uſe of it to work upon the conſcience of thoſe, whoſe per-

ſwaſions in Religion were more antient than their own. They imploy'd inſtruction, and example, and added the allurement of worldly preferment, diſpoſing of places of Truſt and Profit only to Chriſtians. But they came not to force. Me thinks you ſhould not condemn the practice of the Primitive times, and uſe us worſe than they thought fit, and I think lawful, to uſe *Pagans* and *Jews*.

You might too, in my opinion, conſider whether it be for your advantage, to let fall the plea you have ſo long, and ſo univerſally maintained, that you puniſh, not for Religion, but Treaſon. When we ask where this Treaſon lies, the anſwer alwaies is, that it lies in our perſwaſions concerning the Pope in whom we believe a power inconſiſtent with the ſafety of Princes or fidelity of Subjects. This the perſon of Honour againſt S.C. makes the only cauſe of *jealouſy, or ſuſpition of our Fidelity, which may prove dangerous to the Kingdom, and againſt which the laws are provided:* This is *Execution of Juſtice*; This every body aſſigns for the Treaſon laid to our charge. When this is taken away, there remains nothing that I know, but Religion for which we are to be puniſh'd. I hope I have declared my mind ſufficiently in this point, and cleared my ſelf, and thoſe of the ſame judgment with me, from all guilt of this Treaſon. If you will notwithſtanding puniſh us, you may if you pleaſe, but I am ſure you cannot ſay you puniſh us for Treaſon. The laws being as they are, it may ſhew very ſtrange to pretend favour from them: but yet confiding in the authority of this Honourable Perſon, who ſays they were provided againſt Opinions, which I have diſclaimed, and conſidering the laws themſelves mention withdrawing Subjects from their natural Obedience (23. *Eliz.* 3. *Jac.*) as the ground of their ſeverity, I hope it will not misbecome me, to wiſh you would be more guided by their intention, than Letter. The intention of laws I think is acknowledged their beſt Interpreter; were the judgment of this Perſon of Honour of value with you, I ſhould not doubt you would allow ſome equity in my wiſhes; for I am ſure I am not within the compaſs of that intention.

But I am not ſo vain as to appeal to any thing but mercy. As nothing more becomes me to ask, ſo nothing more becomes

comes you to ſhew, though truly I think it not more for your Honour than intereſt in this caſe. Certainly you would not have theſe Principles gain ſtrength, againſt which you teſtify ſo much averſion. Why then do you do all you can, to make them paſs for Principles of Religion? For while you treat equally thoſe who diſclaim, and thoſe who hold them, and put no difference betwixt them and points of Faith, you bid fairly to perſwade people that there is none, and that they ought to ſuffer as much for the one as the other. Methinks your own experience ſhould inſtruct you, that 'tis no eaſy thing, to pluck up any perſwaſions, which are thought to ſpring from the root of Religion, let them be never ſo falſe or wicked, and that it concerns you ſufficiently not to let more than are, be thought incorporated with it. If this import you not, can it at leaſt be for your advantage, that thoſe who would comply with you, ſhould be in a much worſe condition, than thoſe who will not, and this purely for their compliance? The equality, which you ſhew, hinders not the caſes, of the one and the other, from being very unequal, and the disadvantage of the inequality lies on that ſide which is inclin'd to you. Theſe are in the worſt caſe of any of our communion. For the reſt ſuffer only from you, theſe from you and us too.

Pray reflect a little how the world has gone, and goes with thoſe who gratify you in this matter. What was the event of that unwearied conſtancy which the learned *Withrington* ſhew'd in it? He loſt his good name, his Friends, all comforts of life, all ſweetneſs of ſociety with thoſe of his own communion, and had not ſo much as Liberty from you, but liv'd and dy'd a Priſoner. *Walſh* ſucceeds him, in learning, in fidelity, in conſtancy; and in all likelyhood fortune. He has appear'd ſo far in this buſineſs, that I believe he thinks it not ſafe to appear in any part of the world where the Pope bears ſway: and yet for ought I know has as little ſecurity at home as abroad. His Liberty and Life are at the mercy of every informer, it not being in the power of any Judge, before whom he ſhall be brought, to ſave him from the puniſhment appointed for Treaſon. *Harold* is another who has appeared in this cauſe with the ſame ſucceſs. He lives confin'd in a convent of his own order,

order, in or near *Bruxels*, becauſe he refuſes to retract the *Iriſh* remonſtrance, without an expreſs ſaving of fidelity to his King. This by the Congregation *de Propaganda* at *Rome* was judged a captious exception, and the man is by the Internuncioe of *Bruxels* confin'd againſt his will, and notwithſtanding the permiſſion of his own Superiors to retire elſewhere. *Coppinger* and the reſt of the regular Remonſtrants in *Ireland*, to ſay nothing of other, and thoſe many and grievous vexations, are either actually baniſht by the late Proclamation againſt Biſhops and Regulars, or live in extream danger, and fear of being diſcovered and expos'd to the law by thoſe, who hate them for their conſtancy to the Remonſtrance. And this is the fate of all who gratify you with thoſe teſtimonies of Loyalty which you are perpetually urging.

Time was when you objected againſt me, that we had an unintelligible way of Government among us. Permit me to ſay I can as little underſtand yours. He was a wiſe Prince who cauſed the Oath of Allegiance to be made, with deſign to diſtinguiſh the dangerous Principles, which he thought concurred to the Powder Treaſon, from others which were innocent. Who can underſtand, why thoſe, who by that Diſtinction are found on the right ſide, ſhould always be in worſe condition than thoſe who are on the wrong? Did K. *James* or the Parliament, when they eſtabliſht a Diſtinction by Law, mean to find out the Innocent, by their diſtinction, that they might be the worſe for their Innocence? To impute Danger and Treaſon to one part, and puniſh both, and the not-dangerous, and not-Traitors more? For ſo they are though not by you. This is the effect of your Diſtinction, though ſure it was never the deſign. The Act ſeems made to diſtinguiſh the Treaſon, for which you ſay we ſuffer, from the Religion, for which you ſay we do not. And when all is done, they are not ſo much as exempt from the puniſhment of Traitors, who by this Act are exempted from the guilt of Treaſon. *Withrington* was no Traitor, his actions and writings clear him ſufficiently. *Walſh* is no Traitor, on the contrary he has given proofs of Fidelity which few could, and fewer perhaps would. And yet the Law looks on him, and may to day

or

or to morrow paſs on him as a Traitor. Truly it is not intelligible, at leaſt to my dulneſs, how it ſhould be for your intereſt, that things ſhould be carried in this manner. This I know, that while they are ſo, few will comply with you, I mean where with a ſafe conſcience they may. For Hopes and Fears are the main motives, which carry human nature, and 'tis not to be expected people ſhould gratifie you, when they have nothing to hope, and more to fear, than when they do not. For my own part I think you very unreaſonable to quarrel at me for being conceal'd, and ſingle. At leaſt I am not ſo unreaſonable as to court any man, by joyning with me, to run the fate of *Walſh* and *Withrington*, and will avoid it my ſelf as long as I can. I reliſh not their uncomfortable condition, finding it uncomfortable enough to live in perpetual fear of the Laws: But I declare they ſhall not take hold on me for Treaſon; For I again diſclaim thoſe poſitions which you ſay are Treaſonable. More I could and would ſay to you, if none ſaw my letters but your ſelf. But thus much I profeſs to all the world; and beſides, that I am

Your very humble Servant.

This

This following Quotation out of Dr. *H. Ferne*, late Biſhop of *Cheſter*, ſhould have been inſerted with thoſe other Quotations taken out of Dr. *Stillingfleet*, &c. which you have before at the end of the Proteſtant Gentleman's Letter, pag 7. But the Book (of the ſaid Dr. *Ferne*) which has it, came not to hand ſoon enough to inſert it there. And yet being ſo directly and fully to purpoſe, I would not omit giving it here.

I *Believe and do ſuppoſe there are ſome*, [Popiſh Prieſts] *who in the ſimplicity of their hearts, and out of meer Conſcience of Religion, do labour the propagation of it, whilſt others more directly are guilty of Seditious and Treaſonable Practices. It is my wiſh there could be a diſtinction made between the one and the other, that the puniſhment (which the Law adjudges all Prieſts to, that are found within the Land) might only fall upon them, who are indeed guilty of ſuch practices, which being ſo frequently found in their predeceſſors (and the State being not able to diſtinguiſh between them, who are all Miſſionaries of* Rome) *cauſed thoſe Laws to be made for the ſecurity of Prince and State. And if they that come into the Land, without any Treaſonable intent, do ſuffer for it, they muſt thank their fellows (as the above-mentioned Seculars do the Jeſuits) whoſe reſtleſs attempts forced the State to forbid them all entrance into the Land under pain of Treaſon.*

To conclude; it is not Religion, nor the Function, nor any Miniſterial Act belonging to it, that is puniſhed in Romiſh *Prieſts, but Treaſon and Seditious practices, to which* Religion, Sacraments, Miniſtery of Reconciliation, *and all that is reputed Holy, are made to ſerve; and all this to advance and ſecure the Papal Uſurpation.* *Dr.* H. Ferne *in his Book entituled,* Certain Conſiderations of preſent Concernment; touching This Reformed Church of *England. Printed in* London, 1653. *Chap.* 5. *Paragraph* 9. *Pag.* 169.

FINIS.